

MEMORANDUM

December 6, 2017



U.S. DEPARTMENT
OF HOUSING
AND URBAN
DEVELOPMENT

To: Linda Cruciani
Deputy General Counsel for Operations, Office of General Counsel, CAG

Helen Foster
Chief Administrative Officer, Office of Administration, A1

Kevin R. Cooke, Jr.
Deputy Chief Information Officer, Office of the Chief Information Officer, Q

From: 
Brian T. Pattison
Assistant Inspector General for Evaluation, G

Subject: Final Report: E-Discovery Management System's Capacity To Meet Customer Demand for Electronic Data, 2017-OE-0008

Please see the attached final report on our evaluation of the U.S. Department of Housing and Urban Development's E-Discovery Management System. We identified three findings during the course of our evaluation and made two recommendations.

The Office of General Counsel responded to our draft report and concurred with both of our recommendations. These comments, along with our response, are included in appendix A. Recommendations 1 and 2 are "resolved-open." We will contact your office within 90 days to begin discussing your management decisions and action plans. We appreciate the assistance you and your staff provided throughout the evaluation.

Certain information has been withheld from public release in accordance with 5 U.S.C. § 552(b)(5). This provision protects intra-agency communications subject to the deliberative process privilege, and the information withheld consists of information related to HUD procurement.

Additional information is being withheld under 5 U.S.C. §552(b)(4). This provision protects trade secrets and commercial or financial information obtained from a person or organization that is privileged or confidential. The information withheld consists of business processes for producing E-Discovery documents.

Attachment

cc:

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Frieda Edwards, Director, Office of General Counsel, CAGB

Patrice Mitchell, Management Analyst, Office of General Counsel, CAGB
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OFFICE OF INSPECTOR GENERAL

OFFICE OF EVALUATION



U.S. DEPARTMENT
OF HOUSING
AND URBAN
DEVELOPMENT

E-Discovery Management System's Capacity To Meet Customer Demand for Electronic Data

Program Evaluations Division



Executive Summary

E-Discovery Management System’s Capacity To Meet Customer Demand for Electronic Data

Report Number: 2017-OE-0008

December 6, 2017

Why We Did This Evaluation

Several U.S. Department of Housing and Urban Development (HUD) offices must obtain electronically stored information (ESI) as part of litigation holds, investigations, Freedom of Information Act requests from the public, etc.

Failure to obtain ESI by a prescribed date may (1) violate the law, (2) cause penalties against or costs to the agency, or (3) compromise or otherwise negatively impact a government investigation.

The Office of General Counsel (OGC) oversees the collection of ESI and uses the E-Discovery Management System (EDMS) to process program offices’ requests for ESI.

We initiated this evaluation out of concern that requests for ESI were not processed in a timely manner. Our objective was to determine whether HUD’s EDMS has the capacity to meet customers’ demand for ESI.

Results of Evaluation

HUD has a contract with Leidos Innovations Corporation for E-Discovery services using EDMS. The process for collecting ESI and delivering it to customers has two major subprocesses: (1) an initial ESI collection and (2) a keyword search to refine the initial collection results.

OGC’s and Leidos’ collection of ESI does not meet customer demand because processing ESI requests takes too long to meet each program offices’ (that is, customers) needs. Several factors contribute to this result. Namely, (1) the contract was not scoped using complete demand information, (2) demand for ESI has changed over time and may increase, and (3) technical issues create challenges for the timely delivery of ESI to customers. This condition poses several risks to HUD, including monetary and other sanctions, missed opportunities to perform investigative fieldwork, and litigation and associated costs.

[REDACTED]
[REDACTED]
[REDACTED] HUD planned several changes to its information technology infrastructure, which over time may increase its capacity to process ESI requests and decrease the time it takes to deliver collection results to customers.

Recommendations

We recommend that

1. OGC conduct a study to project HUD’s capacity needs for ESI collections.
2. OGC give its completed study to OCIO for consideration during future contract award decisions regarding E-Discovery services.

OGC responded to our draft report and concurred with both of our recommendations. These comments, along with our response, are included in appendix A. Recommendations 1 and 2 are “resolved-open.”

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Introduction

Objective

Our objective was to determine whether the U.S. Department of Housing and Urban Development's (HUD) E-Discovery Management System (EDMS) has the capacity to meet customers' demand for electronically stored information (ESI) searches.

Background

HUD Program Offices Obtain ESI for Many Reasons

ESI is information that is created, manipulated, communicated, stored, and best used in digital form, requiring the use of computer hardware and software. Examples of ESI include but are not limited to emails and their attachments, word documents, spreadsheets, and information stored in databases. ESI can be stored on many sources, including computer hard drives, network servers, thumb drives, databases, the cloud, and mobile devices, among others. Our evaluation was limited to ESI collected from government-owned resources.

Several HUD program offices must obtain ESI to advance their respective missions. These offices primarily include the Office of General Counsel (OGC), the Office of Inspector General (OIG), and the Office of Administration's Freedom of Information Act (FOIA) Division. These offices may require ESI to further government litigation holds, investigations, and FOIA requests from the public, among other reasons. Consequences for delayed collection of ESI vary for each program but may include (1) violating the law, (2) causing penalties against or costs to the agency, or (3) compromising or otherwise negatively impacting a government investigation.

Several HUD Customers Submit ESI Requests to EDMS for Processing

The OGC E-Discovery team oversees the ESI collection process at HUD. The OGC E-Discovery team uses EDMS to process and track requests for ESI. During our fieldwork, HUD had a contract with the Leidos Innovation Corporation for E-Discovery services. This contract expired at the end of fiscal year (FY) 2017—after the completion of our fieldwork. Since then, HUD has exercised a 1-year contract to continue E-Discovery services, which will expire on September 29, 2018.

The OGC E-Discovery team and Leidos are both involved in processing customers' ESI requests using EDMS. OGC, OIG, and the FOIA Division all submit requests for ESI using EDMS. Each customer submits ESI requests for different purposes. Typically, OGC submits ESI requests in furtherance of a litigation hold, OIG submits them in furtherance of investigations and inquiries, and the FOIA Division submits them in furtherance of its responses to FOIA requests from the public.

According to the contract, Leidos uses HUD-owned information technology (IT) equipment to collect requested ESI for identified custodians’¹ email, workstation drives, network drives, instant messages, and SharePoint.

Process for Completing Customers’ ESI Requests

The process for collecting ESI and delivering it to customers has two major subprocesses: (1) an initial ESI collection and (2) a keyword search that refines the initial collection results. There are delays between these two subprocesses in which customers must take action to advance their ESI request for further processing.

A customer must enter an ESI request into EDMS to begin the ESI collection subprocess. The OGC E-Discovery team must approve requests before Leidos schedules the collection.² Once the collection is scheduled, the customer and OGC E-Discovery team receive an email indicating the scheduled collection date. Next, Leidos collects ESI from three primary email repositories: [REDACTED]³ ⁴ Leidos also collects ESI from other repositories, such as workstation drives, network drives, instant messages, and SharePoint. Once the collection is completed, the status of the ESI request changes to “collected,” and the customer and OGC E-Discovery team receive an email indicating that the collection was completed. Figure 1 below summarizes the [REDACTED]

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¹ A custodian is a HUD user or account holder. One ESI request may cover several custodians.

² [REDACTED]

³ [REDACTED] contains archived ESI from 2012 and earlier. [REDACTED] contains archived ESI from 2012 to 2016. The [REDACTED] repository contains active and archived ESI from 2016 to the present.

⁴ Leidos does not have direct access to ESI contained in [REDACTED]. Rather, Leidos requests that the company with direct access to [REDACTED] collect, hold, and export the ESI contained in [REDACTED] on its behalf.

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PRIV Figure 1 – [REDACTED]

PRIV [REDACTED]

PRIV [REDACTED]

PRIV [REDACTED]

⁵ OIG receives all ESI collected and is not required to submit keyword search terms in EDMS. However, OIG ESI requests are still routed through this keyword search approval process before the collected ESI is released to OIG.

⁶ The Federal Rules of Civil Procedure require agencies to preserve ESI as soon as litigation is reasonably anticipated. However, the agency does not need to produce the ESI until litigation occurs. Because a matter may never advance to litigation, a customer may choose not to advance an ESI request for further processing.

⁷ [REDACTED]

⁸ Leidos already has email from [REDACTED]. However, for ESI in [REDACTED], Leidos must request that the company with direct access retrieve and export the collected ESI. The company will then export the collected ESI and provide it to Leidos. At this point, Leidos has the entire universe of collected email.

⁹ Leidos does not index ESI or apply keyword search terms to ESI collected for OIG. Rather, Leidos zips all ESI into a single file for final delivery.

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PRIV [REDACTED]
PRIV [REDACTED]

Once completed, the customer office’s senior manager will receive an email stating that the ESI request results are ready. The senior manager must approve the release of the ESI request results. Once approved, Leidos grants the customer access to the results in [REDACTED]. This keyword approval process is required to ensure a valid business or legal reason for access to the ESI. Figure 2 below summarizes the [REDACTED].

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PRIV Figure 2 – [REDACTED]

PRIV [REDACTED]

Scope and Methodology

Scope

We performed our fieldwork for this evaluation between February and June 2017. This evaluation covered operations in four HUD program offices – OGC, OIG, the Office of the Chief Information Officer (OCIO), and the FOIA Division in the Office of Administration. The evaluation also covered operations at Leidos.

For this evaluation, we limited our analysis to ESI requests submitted for processing between FY 2013 and April 6, 2017. We also limited our analysis to the ESI request process that was in

place during the time of our fieldwork.

Methodology

To address our objective, we conducted 19 interviews between February and May 2017 with officials from the offices identified in our scope and with officials from the Council of the Inspectors General on Integrity and Efficiency, Investigations Committee. Through these interviews, we learned customers' expectations and heard about their experiences when obtaining ESI. We also identified the roles, responsibilities, and experiences of personnel involved in submitting or processing ESI requests. We reviewed relevant statutes, regulations, and other documentation to determine external measures and industry standards for timeliness.

We analyzed the number of ESI data requests submitted between FY 2013 and April 6, 2017. We tabulated the total number of requests, by customer and fiscal year, and analyzed the timeframes for responding to those requests. We present our results in both calendar days and business days. We also tabulated the volume of technical issues associated with processing these ESI requests (for example, server crashes, inaccessibility of ESI, etc.). We examined the frequency of technical issues, by each type.

We completed this evaluation under the authority of the Inspector General Act of 1978, as amended, and in accordance with the Quality Standards for Inspection and Evaluation issued by the Council of the Inspectors General on Integrity and Efficiency (January 2012).

Limitations

We did not have significant limitations associated with this evaluation.

Findings

EDMS Capacity Does Not Meet Customers' Needs

EDMS does not meet customer demand for ESI because processing ESI requests takes too long to meet each program offices' needs. This is because (1) the contract was scoped using incomplete information about how much capacity the system would need, (2) demand for ESI has changed over time and may increase, and (3) technical issues sometimes create challenges for the timely delivery of ESI to customers. These conditions delayed the collection of ESI, which could cause HUD to (1) incur monetary and other sanctions, (2) miss opportunities to perform investigative fieldwork, and (3) be subject to litigation and associated costs.

Processing ESI Requests Takes Too Long To Meet Customers' Needs

Legal-, policy-, and quality standard-related criteria defining how fast an agency must produce ESI differed according to the reason for the request. According to

- The Federal Rules of Civil Procedure (FRCP), agencies must respond in writing within 30 days after being served or within 30 days after the parties' conference.
- The Inspector General Empowerment Act, agencies must produce documents for OIGs in a "timely" manner, but the Act does not define "timely." Investigation Committee officials from the Council of the Inspectors General on Integrity and Efficiency said that the required timeliness varies but it may reasonably take up to 30 calendar days at that agency, depending on the nuances of the case (for example, case type, complexity and volume of ESI requested, etc.). HUD OIG officials agreed that needs vary by case. However, they also said that in some cases, they may need ESI results produced "within hours" or "real time."
- FOIA, agencies must produce responsive documents, such as those found in ESI, to requestors within 20 business days, although there can be extensions in unusual circumstances. An official from the FOIA Division said that the Division would like ESI request results within 7-10 business days so it can complete additional processing before responding to the FOIA request in a timely manner.

We analyzed the time spent processing ESI requests by calculating the average time it took to (1) complete the initial collection of requested ESI and (2) complete the keyword searches on the initial collections to refine the results.¹⁰ On average, it took longer to process each customer's ESI requests than was necessary to meet the customer's needs (as stated above). [REDACTED]

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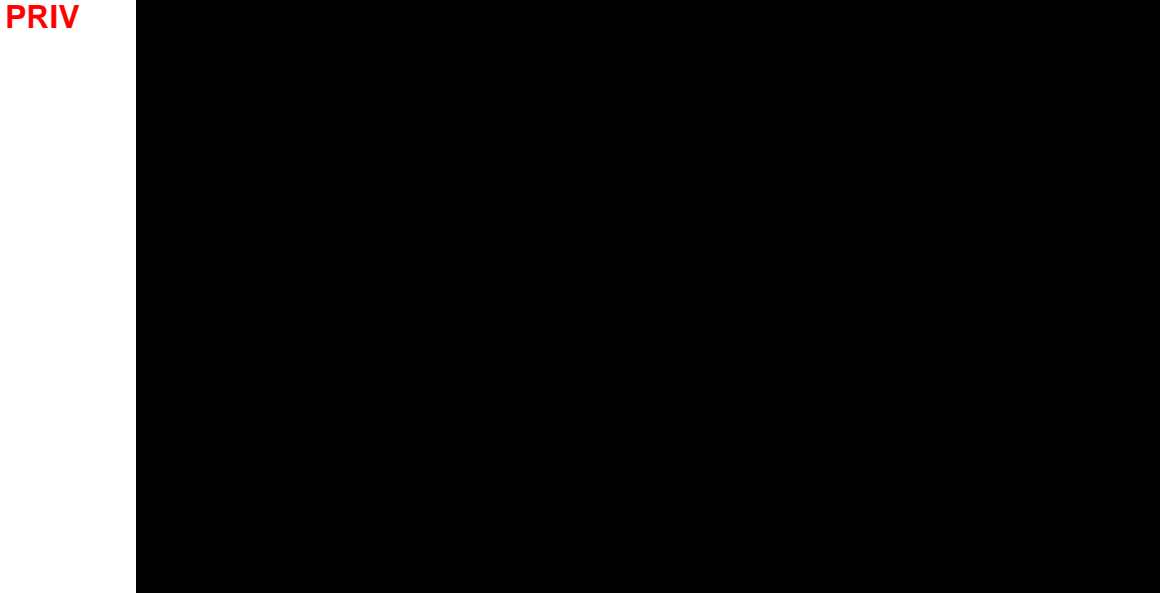
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¹⁰ We calculated the average for each processing phase separately because (1) there is a time lag between the phases in which the customer controls whether to advance the ESI request for further processing and (2) we found that there were ESI requests that resulted in an initial collection but did not advance to the keyword search phase. The average processing times for each phase were added together to calculate total average processing time.

PRIV [Redacted]
PRIV [Redacted]

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PRIV [Redacted].¹¹

PRIV Figure 3 – [Redacted]



Appendix B summarizes our calculation of the average time taken to perform each of the processing phases from FY 2015 through the first half of FY 2017, by customer.

Several Factors Contribute to Increased Time Spent Processing ESI Requests

The Contract Was Not Scoped Using Complete Demand Information

HUD customers are submitting more and larger requests for ESI than the contract was originally estimated to cover. OGC officials managing the contract said during scoping that OGC made its best guess to estimate the required capacity that the contract would cover. Before establishing any E-Discovery service contract, OGC requested and paid for one collection at a time. The collected ESI was delivered to OGC on compact disks. To scope the original E-Discovery services contract, OGC examined how many collections were contained on the compact disks. It used this figure to estimate customer demand for ESI and how it would grow.

An OGC official said that OGC did not have historical data for all customers’ demand (for example, OIG and the FOIA Division) for ESI, which would have helped it more accurately estimate capacity needs. When establishing the first E-Discovery services contract, the ESI requests submitted by OIG and the FOIA Division were serviced under a separate contract. As a

¹¹ Any time lags resulting from technical issues occurring during the collection and keyword searches were included in the calculation. Any time lags resulting from the customers’ waiting period between the completion of the initial collection and initiation of the keyword search were excluded from the calculation.

result, OGC did not consider OIG- or FOIA-related requests when scoping the first E-Discovery services contract. After the conclusion of our fieldwork, HUD officials told us the average volume of requested ESI for each custodian has also been higher than they originally estimated.

Demand Has Changed Over Time and May Increase

OGC officials managing the contract said that they underestimated how much the demand for ESI collection would increase over the life of the contracts. One official said that OGC did not initially receive the high volume of requests from OIG and the FOIA Division that it does now. For example, in August 2016, OIG submitted a large scope ESI request covering approximately 28 custodians' ESI over an 8-year period, exempt from any result-limiting keyword search requirements. Given the large scope of the request and related technical issues logged, the results were significantly delayed. OIG personnel said that although they began receiving partial results in October 2016, they did not receive complete results until March 2017—approximately 7 months after they were requested. OIG personnel told us that their demand for ESI may increase. Another HUD official added that HUD's litigation has also increased, which, in turn, has increased demand for ESI collections.

PRIV An OGC official said that it can be difficult to predict capacity needs. Our analysis indicated that demand has fluctuated over time. For example, in 2013, a single spike in demand occurred for critical ESI requests that were submitted in furtherance of the "[REDACTED]." ¹² These ESI requests covered a uniquely large number of custodians' ESI. According to OGC, the complete initiative would cover approximately 1,100 custodians' ESI over a 10-year period. OGC obtained an estimate from Leidos, stating the storage and time necessary to process all of **PRIV** the requests. [REDACTED]. OGC officials said that processing this volume would take longer than the case timeline would allow.

Additionally, the contract did not cover the data storage necessary to complete the initiative. To meet discovery obligations and avoid sanctions during legal proceedings, the U.S. Department of Justice agreed to process the raw, collected ESI.

Technical Issues Make Timely Collection of ESI Difficult

Technical issues exist that create challenges for the timely delivery of ESI request results to customers. We analyzed a log of issues reported while processing ESI requests. Approximately 25 percent of ESI requests submitted encountered an issue during processing.¹³ Delivery of ESI request results was delayed most often because

- requested ESI was contained on a workstation not connected to the network (for example, on a local hard drive),
- requested ESI was for an unknown user, or

¹² A multiagency initiative to review fraudulent loan originations made by some of the Nation's largest mortgage companies in the Federal Housing Administration (FHA) program. This initiative resulted in more than \$4 billion in recoveries for the FHA fund.

¹³ There were 525 ESI requests submitted during the period FY 2013 – April 6, 2017, with issues reported. Some ESI requests had multiple issues.

- customers did not provide the correct file path to retrieve ESI from a shared file.

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In addition, Leidos and OGC officials told us that the review tool used to process ESI requests, ██████████ is outdated and does not index as well as other review tools on the market, which contributes to delays. Due to its limitations, Leidos officials said that they conduct extra quality assurance checks on the collected ESI to ensure that it is indexed properly. The current tool lacks functionality (for example, Bates stamping, in-place redaction, bulk PDF conversion, etc.), which increases attorney staff review time.

Delayed Delivery of ESI to Customers Poses Several Risks to HUD

Delaying the collection of ESI could cause HUD to (1) incur monetary and other sanctions, which could impact the outcome of an entire case; (2) miss opportunities to perform investigative fieldwork; and (3) be subject to litigation and associated costs. OGC officials said that many different sanctions can be levied against an agency if the agency does not comply with an E-Discovery production deadline. FRCP outlines these sanctions. They may include

- monetary sanctions,
- dismissal of case sanctions,
- dismissal of claims or defense sanctions, and
- ruling an adverse inference for jury instructions.

OGC officials told us that to avoid these sanctions, HUD attorneys have requested extensions for E-Discovery but HUD has never missed a production deadline.

OIG officials told us that delayed delivery of ESI can result in missed opportunities to perform investigative fieldwork. They said that obtaining the ESI is especially important for conducting investigative interviews because ESI enables investigators to (1) develop a superior interview strategy, (2) question witnesses about the ESI content, and (3) obtain evidence that can contradict or confirm the witness' statements during an interview. Without the ESI to plan or execute interviews, OIG may not get the opportunity to interview necessary witnesses in a timely manner. OIG officials told us that there were five to eight employees whom they were unable to interview for an investigation because they left HUD while OIG waited for ESI request results. An OIG official also said that delayed delivery of ESI negatively impacts OIG's ability to collect evidence and conduct surveillance. An OIG official cited an example in which a HUD official was accepting sporting event tickets from a contractor and delayed receipt of ESI resulted in missed surveillance opportunities. Without the ESI, OIG investigators were unable to obtain video, photographic, or other visual evidence of the misconduct.

If an agency does not respond to a FOIA request from the public, the requester may submit an appeal, which could result in litigation, but actual litigation is rare. HUD's FOIA-related litigation costs for 2016 were \$51,744. These litigation costs resulted from four ongoing cases. Three of these cases resulted from nonproduction of records, and one resulted from denial of a fee waiver. Of the three cases for nonproduction, none was related to delays in ESI request processing.

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PRIV [REDACTED]
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PRIV Figure 4 – [REDACTED]

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[REDACTED]

PRIV [REDACTED] he Chief Technology Officer (CTO) said that OCIO approved a recent funding request, which will be used to purchase a new review tool, [REDACTED] will replace the current review tool, [REDACTED]. Officials from

PRIV OGC and Leidos both said that [REDACTED] is a superior review tool with more features. Once funded, HUD plans to leverage the contract with Leidos to migrate ESI currently stored in

PRIV [REDACTED] and other repositories to a new data center so it can be loaded into [REDACTED]

PRIV [REDACTED]

PRIV [Redacted]
PRIV [Redacted]

PRIV [Redacted]
PRIV [Redacted] HUD’s E-Discovery program manager said
PRIV that she does not anticipate that [Redacted] will have much impact on capacity.

HUD Plans To Increase Capacity Under a New Contract

OGC and OCIO officials said that allocating all requested funding was not preferable because HUD can better increase capacity under a new contract, which will upgrade and combine IT services, once awarded. HUD planned to award the system integration (SI) contract as one of the elements of the HUD Enterprise Architecture Transition (HEAT) initiative. The HEAT initiative aims to modernize HUD’s IT infrastructure by leveraging technology across HUD’s mission areas as required by Federal law and policy, rather than developing stand-alone capabilities within each mission area.^{14 15}

The SI contract, once awarded, will cover HUD’s end user IT-related needs, such as help desk services and desktop computers. The CTO said that from a security perspective, it is important to limit the number of contractors with access to HUD’s IT systems. Given this and the pending award of the SI contract, HUD chose to incorporate the E-Discovery business need as one of the end user services covered under the SI contract.

To ensure that the SI contract would meet business requirements, OGC and OCIO developed and reviewed the necessary future E-Discovery service requirements. These requirements were included in the performance of work statement for the SI contract solicitation. Although the performance of work statement specified service requirements, such as storing ESI or performing keyword searches, it did not include required capacity specifications.

PRIV [Redacted]
PRIV [Redacted]
PRIV [Redacted]
PRIV [Redacted] At the conclusion of our fieldwork, the award of the SI contract was pending.

Migration of ESI to the Cloud and Use of a New Technical Feature May Improve Future ESI Request Processing

HUD will institute several changes to its IT infrastructure, which HUD and other subject-matter experts agree will enable the (1) intake of a larger volume of ESI requests and (2) timelier processing of ESI requests.

¹⁴ Congressional mandates for IT architecture are contained in the Clinger-Cohen Act of 1996, which was updated and revised by the E-Government Act of 2002 to reflect enterprise architecture.

¹⁵ Related implementation guidance from the Office of Management and Budget is contained in various documents, including Circulars A-11 and A-130; Memorandums 00-10, 05-22, and 12-10; and the Digital Government Strategy.

PRIV ESI is stored in multiple servers, which has resulted in some delays in collecting it. Under the HEAT initiative, HUD is migrating all ESI to an █████ cloud IT environment. Although this migration process is ongoing, eventually all ESI will be stored in this single repository instead of multiple servers as it is now. HUD is moving its emails (including archived emails), ESI on SharePoint drives, and ESI from personal hard drives. The CTO said that the migration of emails should be complete by the end of FY 2017. The target date for completing the migration of ESI on personal hard drives and SharePoint remains unknown. However, this migration effort will reduce the number of separate technologies needed to store the ESI and thereby reduce the number of tasks necessary to process an ESI request. The amount of bandwidth available can also be increased to increase the ESI download speed.

PRIV Additionally, a new feature in █████ will enable administrators to clone, index, and store ESI automatically for a given custodian once the feature is activated for that custodian. █████ ensures that all ESI remains available for collection when the request proceeds to the keyword search phase. Once the ESI migration to the cloud IT environment is complete, collections will no longer be necessary for requests that do not proceed to the keyword search phase. Following release of our working draft report, HUD officials told us that this will also enable administrators to complete the collection phase more quickly for the majority of requests. This may enable staff to repurpose IT infrastructure and other resources and thereby adapt to an increased caseload of ESI requests.

Recommendations

Several factors contribute to EDMS' inability to meet customers' demand for ESI, two of which are attributable to identifying capacity needs inadequately. Namely, (1) the contract was scoped using incomplete information about how much capacity the system would need, and (2) customer demand for ESI has changed over time and may increase. Without the ability to fund increased capacity, customers' demands for the timely delivery of ESI will likely remain unmet in the near future. This outcome results in several risks to HUD, which it can mitigate by better forecasting capacity needs.

Estimate and Prepare for Future Capacity Needs

We recommend that

1. OGC conduct a study to project HUD's capacity needs for ESI collections.

This recommendation is "resolved-open." Please see appendix A for more information.

2. OGC give its completed study to OCIO for consideration during future contract award decisions regarding E-Discovery services.

This recommendation is "resolved-open." Please see appendix A for more information.

Appendixes

Appendix A – Agency Comments and OIG Response

Reference to OIG Response



OFFICE OF GENERAL COUNSEL

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-0500

October 4, 2017

MEMORANDUM FOR: Brian T. Pattison, Assistant Inspector General for Evaluation,
Assistant Inspector General for Evaluation, G

FROM: Linda M. Cefeliani, Deputy General Counsel for Operations, CAG

SUBJECT: Draft Report – E-Discovery Management System’s Capacity to Meet
Customer Demand for Electronic Data, 2017-OE-0008

The Offices of General Counsel (OGC), Administration (Admin) and Chief Information Officer have thoroughly reviewed the above-referenced e-discovery report. The offices concur with your findings and recommendations in the report.

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[Redacted]

Recommendations

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1. OGC conduct a [Redacted]

OGC’s Response:

Comment 1

OGC concurs with this recommendation. The need for greater e-discovery capacity is illustrated by OGC’s prior unfunded requests to increase capacity to process ESI collections and productions. see p. 10 of report. Over the course of the existing e-discovery contract, the volume and scope of the ESI requests has increased in all areas including court-ordered discovery, OIG investigations, and Freedom of Information Act (FOIA) requests. [Redacted]

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[Redacted]

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OGC has reached out to various individuals such as the e-discovery contractor, the Office of the Chief Information Officer (OCIO), and the Office of Administration’s FOIA Division, etc. [Redacted]

[Redacted]

Reference to
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Response

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2. OGC [REDACTED]

OGC's Response:

Comment 2

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OGC concurs with this recommendation. Currently, OGC has a one-year contract with for e-discovery services through FY 2018 (September 29, 2018).

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[REDACTED]

Technical Comments

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[REDACTED]

Disagreement with Publication of the Report

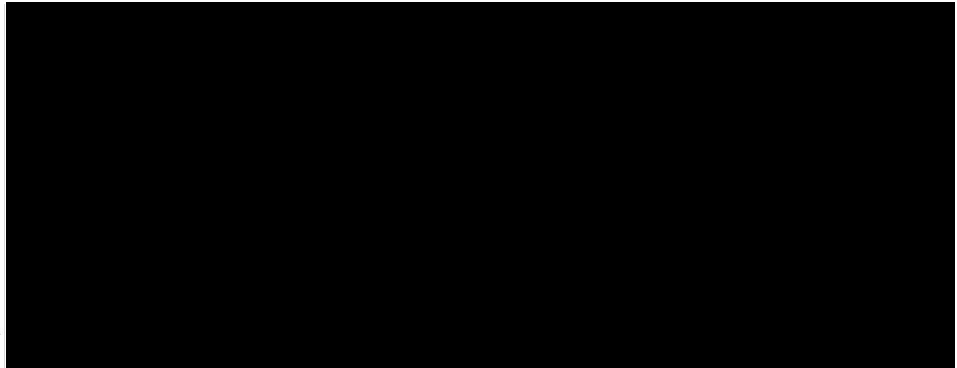
Comment 3

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[REDACTED]

Reference to
OIG
Response

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cc: Helen G. Foster
Paula Lincoln
Kevin R. Cooke, Jr.
Johnson Joy

OIG's Response to OGC Comments

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Readers of the publically available version of this report will see redactions throughout, including in OGC's comments to the report. [REDACTED]

[REDACTED] Because the Department decides how it will respond to our reports, we deferred to OGC in determining what should and should not be publicly disclosed in its comments. We also redacted sentences that summarized its response when OGC asked that that information not be disclosed. This differs from the rest of the report, for which we relied on the advice of the Counsel to the Inspector General to determine which sections of the report to disclose or not disclose.

Comment 1 OGC officials have begun gathering information on ESI collections in furtherance of the [REDACTED]
PRIV [REDACTED]
PRIV [REDACTED]
PRIV [REDACTED] We
PRIV consider the recommendation "resolved-open," pending completion of [REDACTED]

Comment 2 Although not included in OGC's comments above, OGC officials told us separately that they intend to email [REDACTED] to the Principal Deputy Chief Information Officer and the CTO. If OGC officials provide [REDACTED] to OCIO in a timely manner, OCIO officials will be empowered to make a more informed contract award decision for any future contracts that cover E-Discovery services. As stated earlier, [REDACTED]. OGC intends to send it to OCIO immediately thereafter. We consider this recommendation "resolved-open," pending transmission of [REDACTED] to OCIO.

Comment 3 The Inspector General Act of 1978 requires us to post our reports on our website. However, we are not allowed to publically disclose information otherwise prohibited from disclosure by law. While this report was in draft, OGC asked us not to publicly disclose it. To meet our obligations under the Act, we asked OGC to identify those areas of the report that are prohibited from disclosure by law. After OGC did so, we consulted with the Counsel to the Inspector General to determine which sections of the report should be kept from public disclosure and which sections should be disclosed. The redactions in this report, except OGC's comments and summaries of its comments, reflect OIG's determination of what should and should not be disclosed under the Act.

PRIV [REDACTED]
PRIV [REDACTED] we feel that the Act requires us to make public those sections of the report that we have not redacted.

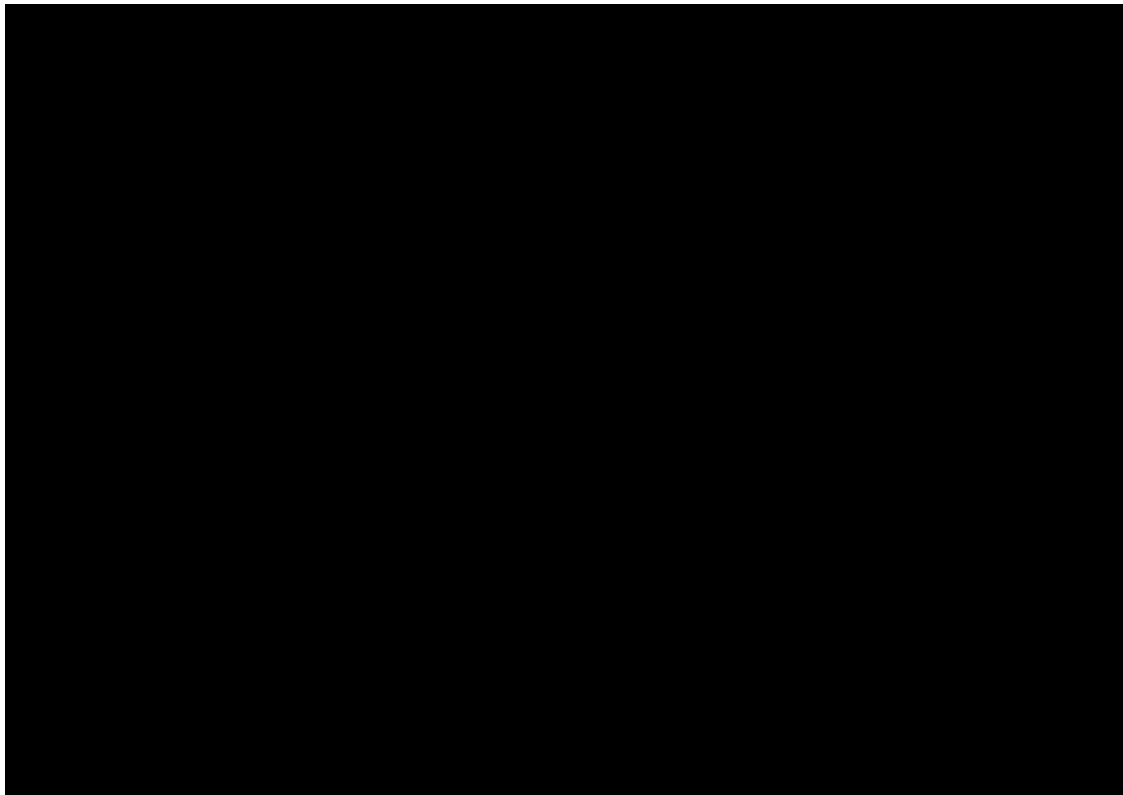
Appendix B – OIG Calculation of Average Time To Process Customer ESI Requests, by Customer

We calculated the average time taken from submission of an ESI request to the OGC E-Discovery team until completion during each fiscal year since FY 2015.¹⁶ We calculated the average time to complete each processing phase (for example, initial collection or keyword search) separately. There were several ESI requests in which an initial collection was completed but the request did not advance to the keyword search phase for further processing. We included such requests in the calculation for the average time to complete the initial collection phase. However, we excluded such requests from the calculation of the average time to complete the keyword search phase.

Since the unit of measure for each customer’s mission requirements varied, we express the calculations in the customer’s respective unit (for example, calendar days or business days). The figures below indicate the average time taken to complete each phase of a given customer’s ESI request by fiscal year.

PRIV Figure 5 – [REDACTED]

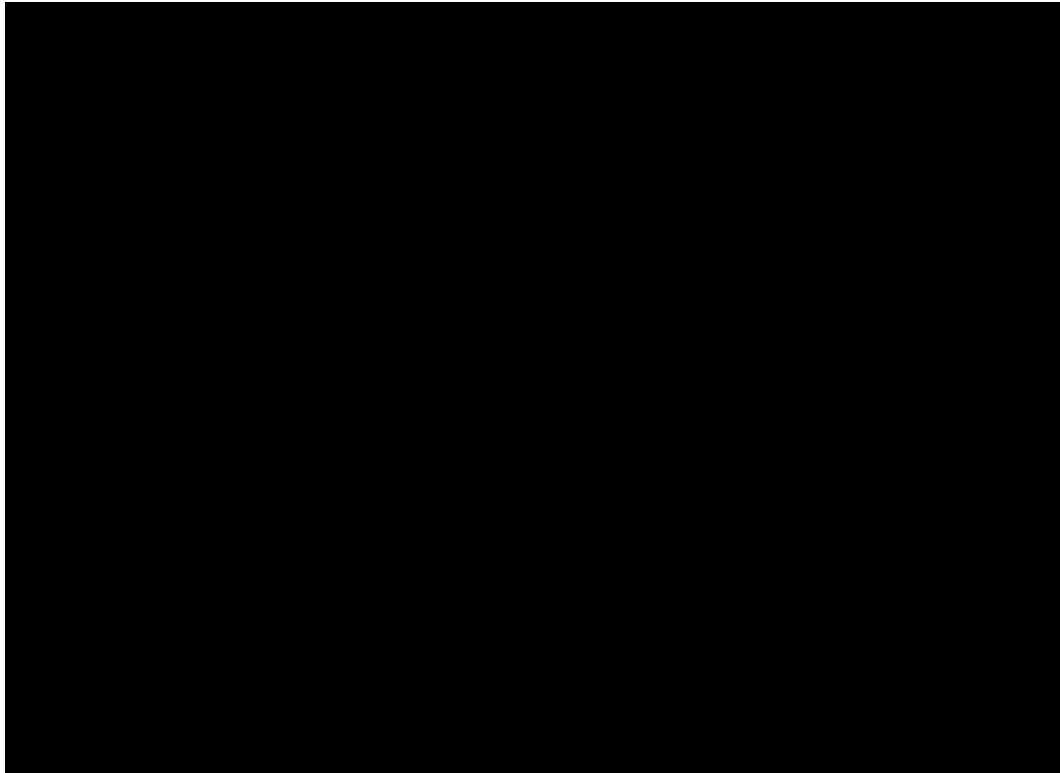
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¹⁶ Any time lags resulting from technical issues occurring during the collection and keyword searches were included in the calculation. Any time lags resulting from the customers’ waiting period between the completion of the initial collection and initiation of the keyword search were excluded from the calculation.

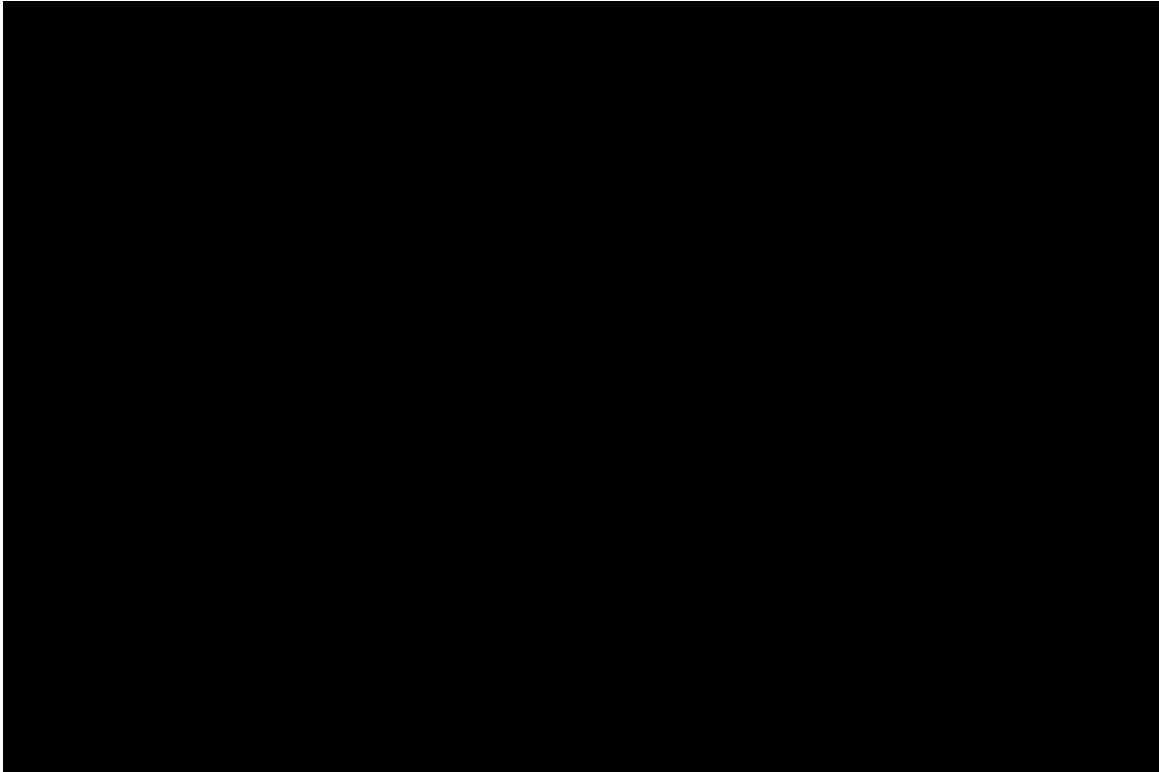
PRIV Figure 6 – [REDACTED]

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PRIV Figure 7 – [REDACTED]

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Appendix C – Acknowledgements

This report was prepared under the direction of Brian T. Pattison, Assistant Inspector General for Evaluation, and Paul H. Bergstrand, Director of Program Evaluations. The Office of Evaluation staff members who contributed are recognized below.

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Appendix D – Acronyms and Abbreviations

Acronym	Definition
CTO	Chief Technology Officer
EDMS	E-Discovery Management System
ESI	electronically stored information
FHA	Federal Housing Administration
FOIA	Freedom of Information Act
FRCP	Federal Rules of Civil Procedure
FY	fiscal year
HEAT	HUD Enterprise Architecture Transformation
HUD	U.S. Department of Housing and Urban Development
IT	information technology
Leidos	Leidos Innovations Corporation
O&M	operations and maintenance
████	████████████████████
OCIO	Office of the Chief Information Officer
OGC	Office of General Counsel
OIG	Office of Inspector General
SI	system integration

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