

2020 Census: The Bureau's Background Check Office Is Not Fully Prepared for the 2020 Census

FINAL REPORT NO. OIG-18-015-A

FEBRUARY 27, 2018



U.S. Department of Commerce
Office of Inspector General
Office of Audit and Evaluation



February 27, 2018

MEMORANDUM FOR: Ron Jarmin
Performing the Non-Exclusive Functions and Duties
of the Director
U.S. Census Bureau

Carol N. Rice

FROM: Carol N. Rice
Assistant Inspector General for Audit and Evaluation

SUBJECT: *2020 Census: The Bureau's Background Check Office Is Not Fully Prepared for the 2020 Census*
Final Report No. OIG-18-015-A

Attached for your review is our final report on the audit of 2020 Census background check preparedness. We initiated our audit to review the Census Bureau's revised background check policies and procedures, as well as its plan for accommodating the background check and hiring needs of the 2020 Census. Our objectives were to (1) assess the Bureau's internal policies and procedures for conducting background checks on temporary employees, as well as any other Census Bureau employees and (2) determine whether the Bureau has a plan in place to conduct background checks for temporary employees who will be hired during the 2020 Census tests and decennial field operations that will occur as part of the actual decennial enumeration.

We found the following:

- Escalating costs and inadequate quality assurance practices pose risks to 2020 Census background check activities.
- The Bureau is not adequately monitoring contractor activities.
- Program officials are not always allocating background check costs to the correct fund.

Pursuant to Department Administrative Order 213-5, please submit to us an action plan that addresses the recommendations in this report within 60 calendar days. The final report will be posted on OIG's website pursuant to sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. App., §§ 4 & 8M).

We appreciate the cooperation and courtesies extended to us by your staff during our audit. If you have any questions or concerns about this report, please contact me at (202) 482-6020 or Terry Storms, Supervisory Auditor, at (202) 482-0055.

Attachment

cc: Enrique Lamas, Performing the Non-Exclusive Functions and Duties of the Deputy Director
Joanne Buenzli Crane, Chief Financial Officer, Census Bureau
David Ziaya, Chief Administrative Officer, Census Bureau
Colleen T. Holzbach, Program Manager for Oversight Engagement, Census Bureau
Pamela Moulder, Senior Program Analyst, Economic and Statistics Administration
Corey J. Kane, Audit Liaison, Census Bureau



Report in Brief

February 27, 2018

Background

The Census Investigative Services office, formerly the Census Hiring and Employment Check office, is responsible for vetting all prospective Census Bureau employees and contractors. The Bureau employs both full-time and part-time permanent and temporary employees, as well as contractors, at various locations. To complete ongoing surveys, decennial census operations, and decennial field tests throughout each decade, temporary employees, who typically work out of their homes, visit millions of U.S. households each year. In the interests of national security, all persons hired for a federal job undergo, at a minimum, a basic background check to ensure that they are “reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States.” The Bureau relies on effective background checks to ensure public safety and that sensitive household data are safeguarded.

Why We Did This Review

Our objectives were to (1) assess the Bureau’s internal policies and procedures for conducting background checks on temporary employees, as well as any other Census Bureau employees; and (2) determine whether the Bureau has a plan in place to conduct background checks for temporary employees who will be hired during the 2020 Census tests and decennial field operations that will occur as part of the actual decennial enumeration.

CENSUS BUREAU

2020 Census: The Bureau’s Background Check Office Is Not Fully Prepared for the 2020 Census

OIG-18-015-A

WHAT WE FOUND

We found that the Bureau has developed policies and procedures for conducting background checks on temporary employees, but quality assurance weaknesses jeopardize the effectiveness of those procedures. Specifically, we found the following:

- 1. Escalating costs and inadequate quality assurance practices pose risks to 2020 Census background check activities.** Since October 2010, the Bureau has used a series of time-and-materials (T&M) and labor-hour contracts—at a cost of \$16.7 million—to support its background check activities. These types of contracts are considered high-risk because the price is not fixed and depends on the number of labor hours that contractors need to complete the requirements. There is no incentive to the contractor to control the cost or ensure labor efficiency.
- 2. The Bureau is not adequately monitoring contractor activities.** We identified issues specifically related to the manner in which program officials are currently managing contractors, as well as the manner in which both program officials and contracting officials are administering the current T&M contract. Unless program officials begin performing required oversight and surveillance, the expenditures scheduled for the remainder of the first option period and remaining three option periods (\$11,132,002.56) may be considered funds to be put to better use.
- 3. Program officials are not always allocating background check costs to the correct fund.** Program officials did not understand that costs for specific activities, such as processing background checks for decennial census applicants, should be charged against the correct funding sources. As a result, between January 2016 and April 2017, a total of 22,704 hours, at a cost of \$1.1 million, were allocated to the wrong project codes.

WHAT WE RECOMMEND

We recommend that the Director of the U.S. Census Bureau do the following:

1. Use available data to estimate the number of staff needed to complete background checks to support the 2020 Census workload and assess whether a T&M contract is needed or if there are other, more efficient methods to control costs.
2. Develop written policies and procedures that address supervisory and employee responsibilities in approving background check applications.
3. Evaluate whether the current contract is being managed as a personal services contract and make the necessary changes required to prevent circumventing the Federal Acquisition Regulation.
4. Train contracting and program officials to ensure they perform proper oversight and surveillance of service contracts.
5. Train program officials to charge salary costs appropriately.
6. Verify the obligation of appropriated funds for background checks and determine whether they have been apportioned and allotted correctly.

Contents

Introduction	1
Objectives, Findings, and Recommendations	3
I. Escalating Costs and Inadequate Quality Assurance Practices Pose Risks to 2020 Census Background Check Activities.....	3
A. The Bureau is relying on risky time-and-materials contracts instead of properly planning for the use of government resources, or fixed-price contracts, to conduct background checks.....	4
B. Quality assurance internal control weaknesses jeopardize the background check process.....	5
II. The Bureau Is Not Adequately Monitoring Contractor Activities.....	6
A. Management of contractors raises concerns.....	6
B. Program officials are not conducting appropriate oversight and surveillance of contractor performance	8
III. Program Officials Are Not Always Allocating Background Check Costs to the Correct Fund.....	9
Recommendations	10
Summary of Agency Response and OIG Comments.....	11
Appendix A: Objectives, Scope, and Methodology.....	12
Appendix B: Deficient Oversight and Surveillance of Contractor Performance.....	14
Appendix C: Potential Monetary Benefits.....	16
Appendix D: Agency Response	17

Cover: Herbert C. Hoover Building main entrance at 14th Street Northwest in Washington, DC. Completed in 1932, the building is named after the former Secretary of Commerce and 31st President of the United States.

Introduction

The Census Investigative Services (CIS) office, formerly the Census Hiring and Employment Check (CHEC) office, is responsible for vetting all prospective Census Bureau employees and contractors. The Bureau employs both full-time and part-time permanent and temporary employees, as well as contractors, at various locations such as its headquarters in Suitland, Maryland, six regional offices, and three call centers.¹ To complete ongoing surveys, decennial census operations, and decennial field tests throughout each decade, temporary employees, who typically work out of their homes, visit millions of U.S. households each year. Our audit focused on the Bureau's policies, procedures, and preparations for conducting background checks for short-term temporary field staff—who, unlike permanent employees and long-term temporary employees, are only vetted by a CIS background check.

In the interests of national security, all persons hired for a federal job undergo, at a minimum, a basic background check to ensure that they are “reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States.”² The Bureau relies on effective background checks to ensure public safety and that sensitive household data are safeguarded. During the 2010 Census, we scrutinized the Bureau's process for hiring temporary employees and raised concerns about confidentiality and, above all, the safety of U.S. residents. Such concerns persist and have implications for the success of the 2020 Census. In support of the 2010 Census, the background check office performed 3.8 million background checks to facilitate the hiring of nearly 857,000 temporary employees.

The hiring process for short-term temporary field employees begins at one of the Bureau's six regional offices. Once an applicant successfully completes the initial testing process and is selected, a regional office employee enters the applicant's relevant information into the personnel and payroll onboarding system. Then, regional office or CIS staff collect and process (1) the applicant's fingerprints at the regional office, which are then reviewed by the Federal Bureau of Investigation for any prior arrests and convictions, and (2) other application forms. Once all required materials are processed, each background check “case” is assigned to a CIS personnel security specialist (this may be either a federal employee or a contractor), who determines whether the applicant has a current investigation (background check) that meets or exceeds the requirements of the position. If derogatory information is identified during the background check, or additional information is required, the specialist will request that information from the applicant. Upon receipt of such information, the specialist will then make a final recommendation and send the case to a supervisor for approval.³ Only federal employees are authorized to make final hiring decisions, and contractors can only make suitability recommendations that must be approved by a federal employee. Decennial census applicants designated as “office workers” are then processed by the Office of Personnel Management; applicants designated as “field workers” do not receive any further review—the

¹ The six regional offices are located in New York, NY; Philadelphia, PA; Atlanta, GA; Chicago, IL; Denver, CO; and Los Angeles, CA. The three call centers are located in Hagerstown, MD; Jeffersonville, IN; and Tucson, AZ.

² Exec. Order 10450, as amended, 3 C.F.R. § 1949-1953 Comp., p. 936 (1953).

³ All CIS supervisors are federal employees.

CIS background check is the only control in place to prevent the hiring of unqualified or unfit applicants for field positions.

In September 2015, we reported significant time and attendance violations, as well as other misconduct, uncovered during an investigation of the CHEC office.⁴ Following that report, the Bureau re-organized, renamed the background check office, and took additional corrective action, which included removing staff and assigning a new acting Assistant Division Chief. In addition, the Bureau implemented new procedures—including a quality control checklist—to ensure adherence to government-wide best practices in personnel security functions. The Bureau also allocated resources in its Acquisitions Division to ensure that procurement officials are adequately performing their roles and responsibilities. During this audit, we reviewed CIS policies and procedures related to these corrective actions.

To complete background check activities, CIS employs a combination of federal employees and contractors. As of July 2017, CIS employed 44 staff, including 22 federal employees and 22 contractors who work together at Census Bureau headquarters in Suitland, Maryland.

⁴ U.S. Department of Commerce, Office of Inspector General, September 14, 2015. *U.S. Census Bureau: Allegations of Time and Attendance Fraud and Other Misconduct by Employees in the Census Hiring and Employment Check Office*, 14-0790. Washington, DC: OIG.

Objectives, Findings, and Recommendations

We initiated this audit in January 2017 to (1) assess the Bureau's internal policies and procedures for conducting background checks on temporary employees, as well as any other Census Bureau employees, and (2) determine whether the Bureau has a plan in place to conduct background checks for temporary employees who will be hired during 2020 Census tests and decennial field operations that will occur as part of the actual decennial enumeration. For this audit, we interviewed Census Bureau employees and contractors who are responsible for background checks, reviewed background check policies and procedures, and analyzed background check data, as well as payroll data for federal employees and contractors. See appendix A for further discussion regarding our scope and methodology. In addition, see appendix B for examples of deficient oversight and surveillance of contractor performance; and see appendix C for unsupported costs and funds to be put to better use that we identified as monetary benefits to the Department.

We found that the Bureau has developed policies and procedures for conducting background checks on temporary employees, but quality assurance weaknesses jeopardize the effectiveness of those procedures (see finding I). Other issues, including the manner in which CIS's current time-and-materials (T&M) contract is being administered (see finding II) and inadequate planning, pose risks to the success of 2020 Census background check activities. We also found that CIS program officials do not always allocate background check costs to the correct funding source (see finding III).

I. Escalating Costs and Inadequate Quality Assurance Practices Pose Risks to 2020 Census Background Check Activities

Public-opinion polling, conducted earlier this decade by the Bureau, indicated that U.S. residents are concerned about the risk associated with potentially hiring people with criminal backgrounds to work on the 2020 Census. The Bureau must mitigate this risk in order to secure the public's confidence in its ability to ensure public safety and safeguard data. Due to efficiencies gained as a result of increased automation, the Bureau intends to hire fewer temporary employees this decade; however, it will still have to process background checks for hundreds of thousands, if not millions, of applicants who will work on each of the 35 separate, but interrelated 2020 Census operations, in a relatively short period of time.

Since October 2010, the Bureau has used a series of T&M and labor-hour contracts—at a cost of \$16.7 million—to support its background check activities. These types of contracts are considered high-risk because the price is not fixed and depends on the number of labor hours that contractors need to complete the requirements. There is no incentive to the contractor to control the cost or ensure labor efficiency. Therefore, the government assumes the risk for cost overruns. Ideally, the Bureau should use its experience in conducting background checks to develop estimates and plan for the 2020 Census workload in the most efficient and effective manner, whether that includes the use of temporary federal government employees, or even a fixed-price contract vehicle instead of a more

risky T&M contract. Furthermore, several components of the Bureau's background check process—including quality assurance procedures—are still incomplete.

A. The Bureau is relying on risky time-and-materials contracts instead of properly planning for the use of government resources, or fixed-price contracts, to conduct background checks

The Bureau is currently using a mix of federal employees and contractors—acquired through a T&M contract—to complete background check activities. The contract includes a five-year period of performance (one base period and four option periods) that runs through December 13, 2020. As previously stated, a T&M contract is considered high-risk because the price is not fixed and the government assumes the risk for cost overruns, which is what we observed with CIS's current T&M contract. The contract was originally awarded for a total ceiling price of \$6.8 million; however, contract modifications—to add contractors—has increased the current ceiling price to just under \$13 million, almost double the original award amount. The base period alone, which ended in December 2016, escalated from \$1.3 million to \$2.1 million just ten months after it was awarded.

Federal Acquisition Regulation (FAR) requires federal agencies to develop a written justification—called a determination and findings—for T&M contracts, as well as to develop a plan to minimize future use of T&M contracts for the same or similar requirements.⁵ FAR also requires that a T&M contract be used only “when it is not possible at the time of placing the contract to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of confidence.”⁶ When analyzing the contents of the current contract file, we found that the determination and findings did not adequately justify the use of this current T&M contract. It did not, per FAR:⁷

1. describe market research conducted;
2. establish that it was impossible to accurately estimate with any reasonable degree or confidence the duration of the work or to anticipate costs at the time of placing the contract;
3. establish that the requirement has been structured to maximize the use of firm-fixed-price or fixed-price with economic price adjustment contracts on future acquisitions for the same or similar requirements; and
4. describe plans to maximize the use of fixed-price contracts on future acquisitions for the same or similar requirements.

Also, the Bureau did not attempt to use available data to estimate staffing needs in order to avoid the use of a T&M contract. To estimate the number of staff required to support the 2020 Census, program officials could use the existing workload and payroll data, as well as background check performance metrics. Through such an analysis, the

⁵ FAR §§ 12.207(b)(2), 16.601(d)(1).

⁶ *Id.* § 16.601(c).

⁷ *Id.* § 12.207(b)(2).

Bureau could determine whether in fact a T&M contract, or a fixed-price contract, or additional government staff, would be the most cost effective method to accommodate its background check workload.

B. Quality assurance internal control weaknesses jeopardize the background check process

Government Accountability Office (GAO) internal control standards requires that management (1) “designs control activities in response to the entity’s objectives and risks to achieve an effective internal control system” and (2) “divides or segregates key duties and responsibilities among different people to reduce the risk of error, misuse, or fraud.”⁸

Although the Bureau developed a quality control checklist for supervisors to use during supervisory review to ensure that all employees and contractors are following the new background check procedures, program officials informed us that supervisors have never used the checklist. Furthermore, when we tested CIS’s quality assurance procedures, we identified three significant weaknesses. First, supervisors may not be adequately reviewing suitability recommendations. CIS Standard Operating Procedures require a supervisor to perform supervisory review, which includes a full on-line review of every electronic form included in the applicant file, and then formally approving or denying the recommendation. According to CIS managers, supervisory review should take at least three to five minutes. We found that, in many cases, supervisory sign-off was completed almost immediately after the specialist submitted a recommendation, indicating that the supervisor did not thoroughly review every form. Between October 2014 and June 2017, we identified 404 favorable recommendations in which supervisory review was completed within 2 minutes of the specialist’s recommendation; 174 of those reviews occurred instantly—as indicated by the fact that supervisory review was logged in the system at the same time—to the minute—as the recommendation. To clarify, this is the amount of time that passes between the specialist’s recommendation and the supervisor’s approval; it is not necessarily reflective of the period of time spent by the supervisor to actually review the case.

Second, we identified 503 occurrences between October 2014 and June 2017 of supervisors approving their own favorable recommendations. We found that a supervisor can access the system as both a specialist to make a recommendation, and as a supervisor to complete supervisory review; thus, any supervisor can conduct supervisory review of his or her own recommendation. Per GAO segregation of duties requirements, the system should prevent a supervisor from approving his or her own work.

Third, there are no internal controls to prevent conflicts of interest such as employees conducting background checks for individuals with whom they have a relationship. We asked seven CIS employees and contractors about conflicts of interest and each stated that they had not received, nor been made aware of, any guidance or policy for handling

⁸ Government Accountability Office, September 2014. *Standards for Internal Control in the Federal Government*, GAO-14-704G. Washington, DC: GAO, Secs. 10.02, 10.03, pp. 45, 47.

these situations. Four of the contractors actually did encounter a conflict of interest and reportedly recused themselves from the background check.

Finally, FAR⁹ states that “contracts shall not be used for the performance of inherently governmental functions”, which includes in part “[t]he selection or non-selection of individuals for Federal Government employment.” When a supervisor fails to conduct an adequate review of a contractor’s suitability recommendation, the Bureau is, in effect, allowing a contractor to perform an inherently governmental function—by choosing to select, or to not select individuals, for employment—which effectively preempts “Federal officials’ decision-making process, discretion or authority”¹⁰ to guarantee the accuracy of background checks.

These weaknesses exist because (1) CIS has not developed written policies and procedures that define supervisor responsibilities, and (2) it has not implemented internal controls to (a) prevent “rubber-stamping”—especially of contractor—suitability recommendations, (b) ensure segregation of duties, and (c) prevent conflicts of interest. As a result of these quality assurance internal control weaknesses, applicants who may be unqualified or unfit may nevertheless pass a background check and then be sent to the homes of U.S. residents to collect personal information for the Bureau.

II. The Bureau Is Not Adequately Monitoring Contractor Activities

At the time of our audit, CIS employed as many onsite contractors as it did federal employees; and the Bureau intends to continue to use contractors going forward to carryout 2020 Census background checks. As mentioned previously, we identified issues with the Bureau’s use of T&M contracts. We also identified issues specifically related to the manner in which program officials are currently managing contractors, as well as the manner in which both program officials and contracting officials are administering the current T&M contract.

A. *Management of contractors raises concerns*

According to FAR, “The Government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the civil service laws. Obtaining personal services by contract, rather than by direct hire, circumvents those laws unless Congress has specifically authorized acquisition of the services by contract.”¹¹ The Bureau has not been granted the authority to acquire personal services by contract, but our review of CIS’s current T&M contract indicated that aspects of the Bureau’s relationship with contractors may lead to the perception of an improper employer-employee relationship, possibly indicating a personal services contract.

⁹ FAR § 7.503(a)&(c)(9).

¹⁰ Office of Federal Procurement Policy (OFPP). September 2011. *Performance of Inherently Governmental and Critical Functions*, OFPP Letter 11-01. Washington, DC: OFPP, Sec. 5-1 (a)(1)(ii)(C), p. 49.

¹¹ FAR § 37.104(a).

We tested and found that the relationship between the Bureau and contractors reflects all six descriptive elements¹² identified by FAR (see table I) that indicate the possible presence of a personal services contract:

Table I. Personal Services Contract Descriptive Elements Identified by FAR

1. Is contractor performance conducted on site?
✓ Contractors perform services at Census Bureau headquarters.
2. Are principal tools and equipment furnished by the government?
✓ Contractors use Bureau equipment.
3. Are services applied directly to the integral effort of the agency or an organizational subpart in furtherance of assigned function or mission?
✓ Contractor services are an integral part of CIS's mission.
4. Are comparable services, meeting comparable needs, performed in the same or similar manner using civil service personnel?
✓ Federal employees are conducting identical work.
5. Will the need for the type of service provided be expected to last beyond one year?
✓ The services will extend beyond one year.
6. Does the inherent nature of the service, or the manner in which it is provided, reasonably require Government direction or supervision of contract employees in order to: (1) adequately protect the Government's interest; (2) retain control of the function involved; or (3) retain full personal responsibility for the function supported in a duly authorized Federal officer or employee?
✓ Government employees direct contractor work.

Source: FAR and analysis of Census Bureau documentation.

In addition, at no point, during the pre-award phase, or during the administration of the current T&M contract, did the Bureau implement safeguards to prevent the relative continuous supervision and control of contractors by government personnel, which defines the prohibited improper employer-employee relationship.¹³ Throughout most of

¹² *Id.* § 37.104(d).

¹³ *Id.* § 37.104(c)(2).

our fieldwork, CIS's organizational chart displayed contractors working side-by-side with federal employees and reporting to the same supervisors who are federal employees. In July, after discussing the risks of personal services contracts with contracting officials, a program official delivered an organizational chart that varied from previous charts, in that contractors were "sequestered" in a box apart from CIS federal employees.

Although these types of interactions between the government and the contractor do not on their own necessarily create a personal services contract, they can lead to the perception that the contractors are under the Bureau's direct and continuous supervision and control, and that a potential prohibited employer-employee relationship exists. During our audit, we did not confirm whether a prohibited employer-employee relationship existed, as our audit was not designed to determine whether the current T&M contract was a personal services contract as defined by FAR. However, we obtained enough evidence indicating that the current contract is not being managed appropriately and warrants further review and, if applicable, corrective actions.

B. Program officials are not conducting appropriate oversight and surveillance of contractor performance

A T&M contract provides no positive profit incentive to the contractor for cost control or labor efficiency.¹⁴ Therefore, FAR requires "appropriate" government oversight and "surveillance of contractor performance" to reasonably assure "that efficient methods and effective cost controls are being used."¹⁵ However, we determined that contracting and program officials did not perform most of the oversight and surveillance activities required by FAR and the contract. We found no evidence that the program officials, as well as the Contracting Officer's Representative (COR), per contract requirements, kept contracting officials "fully informed" of difficulties, or problems, encountered during the performance of the contract. Program officials recognized that there were numerous oversight and surveillance activities included in the contract provisions, but did not understand that all such activities were required. We identified a number of instances where program officials failed to perform required oversight and surveillance (for more detailed explanation, see appendix B):

- The COR's letter of designation was not signed by a contract official for at least 8 months.
- The contractor did not submit its Quality Assurance Plan, which, per the contract, was to describe the contractor's strategy to ensure effective project management and quality.
- The contractor did not submit its Quality Control Plan, which, per the contract, was to describe the contractor's methodology to assure that the Bureau's objectives are met.

¹⁴ *Id.* § 16.601(c).

¹⁵ *Id.*

- Government personnel did not create a Contract Administration Plan, which, per the contract, details appropriate surveillance by government personnel.
- The contractor has not performed audits, required by the contract, to ensure adequate contractor performance.
- Evidence of bi-weekly meetings, between program officials and the contractor, required by the contract, only goes back to February 14, 2017, and does not include many of the requirements (e.g., meeting agenda or minutes).
- Approved contractor billing vouchers lacked substantiation, such as individual daily timesheets, as required by FAR.¹⁶

Contract and Program officials' failure to require supporting documentation for contractor billing vouchers represents unsupported costs for the base period and first option period in the amount of \$1,854,385.44 (as of June 30, 2017). Lack of required oversight and surveillance—to ensure efficient methods and effective cost controls—may be causing the government to incur cost overruns. Consequently, unless program officials begin performing required oversight and surveillance, the expenditures scheduled for the remainder of the first option period and remaining three option periods (\$11,132,002.56) may be considered funds to be put to better use (see appendix C).

III. Program Officials Are Not Always Allocating Background Check Costs to the Correct Fund

Appropriations law requires agencies to use funds only for their intended purpose¹⁷ and within a certain timeframe, as specified in the relevant appropriations act. It also prescribes that agencies are prohibited from charging items against another appropriation without statutory authority. Additionally, the Department's *Accounting Principles and Standards Handbook* details how an agency's costs should be recorded in its accounting system to comply with these mandates. However, program officials did not understand that costs for specific activities, such as processing background checks for decennial census applicants, should be charged against the correct funding sources. As a result, between January 2016 and April 2017, a total of 22,704 hours, at a cost of \$1.1 million, were allocated to the wrong project codes. This occurred for the time spent by both federal employees and contractors conducting background checks. These misallocated charges accounted for nearly one third of background check labor hours and costs during that period of time (see table 2).

¹⁶ *Id.* § 52.232-7(a).

¹⁷ 31 U.S.C. § 1301(a).

Table 2. CIS Salary Costs Allocated To Incorrect Funds

Background checks for:	Fund Charged:	
	Decennial	Non-Decennial
Decennial applicants	\$163,528	\$233,941 ^a
Non-decennial applicants	\$914,198 ^a	\$2,276,440

Source: Analysis of Census Bureau documentation.

^a These are incorrect allocations.

Because the Bureau is not accurately accounting for background check costs, it is unable to monitor whether cost estimates are accurate or whether costs are being incurred as expected. These accounting weaknesses also introduce the potential for violating appropriations law.

Recommendations

We recommend that the Director of the U.S. Census Bureau do the following:

1. Use available data to estimate the number of staff needed to complete background checks to support the 2020 Census workload and assess whether a T&M contract is needed or if there are other, more efficient methods to control costs.
2. Develop written policies and procedures that address supervisory and employee responsibilities in approving background check applications.
3. Evaluate whether the current contract is being managed as a personal services contract and make the necessary changes required to prevent circumventing FAR.
4. Train contracting and program officials to ensure they perform proper oversight and surveillance of service contracts.
5. Train program officials to charge salary costs appropriately.
6. Verify the obligation of appropriated funds for background checks and determine whether they have been apportioned and allotted correctly.

Summary of Agency Response and OIG Comments

In its February 5, 2018, response to our draft report, the Census Bureau agreed with all recommendations—noting that it had already begun implementing process changes related to our findings. The Bureau also suggested a number of technical revisions, which we considered but declined to make.

We look forward to seeing an action plan in response to the final report.

Appendix A: Objectives, Scope, and Methodology

The objectives of this audit were to (1) assess the Bureau's internal policies and procedures for conducting background checks on temporary employees, as well as any other Census Bureau employees, and (2) determine whether the Bureau has a plan in place to conduct background checks for temporary employees who will be hired during 2020 Census tests and decennial field operations that will occur as part of the actual decennial enumeration. To accomplish our objectives, we did the following:

- interviewed headquarters officials to gain an understanding of the Bureau's background check policies and procedures, as well as its plans for conducting background checks to support the 2018 Census Test and 2020 Census operations,
- reviewed the following documents:
 - *CHEC Quick Guide*
 - *CIS Onboarding Procedures*
 - *U.S. Census Bureau Strategic Plan FY 2013–2017*
 - Form I-9: Employment Eligibility Verification, Department of Homeland Security, U.S. Citizenship and Immigration Services
 - Optional Form 306: Declaration for Federal Employment
 - Standard Form 85: Questionnaire for Non-Sensitive Positions
- tested relevant information system controls.

Additionally, we analyzed computer-processed data to assess the Bureau's background check policies and procedures and assess internal controls. To assess whether data were sufficiently reliable to conduct this analysis, we performed reasonableness tests, looking for missing data, calculation errors, data outside valid timeframes, data outside designated values, negative values in positive-only fields, and duplicate records. We did not identify any issues and considered the data to be reliable. We conducted basic control tests for information technology systems used to generate these data, but did not conduct the analysis required to fully assess the reliability of these systems.

Based on our review, we identified internal control weaknesses with respect to CIS's quality assurance process.

We conducted this audit from February to September 2017, under the authority of the Inspector General Act of 1978, as amended (5 U.S.C. App.), and Department Organization Order 10-13, dated April 26, 2013, at the Department's offices in Washington, DC, and Suitland, Maryland. This performance audit was conducted 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix B: Deficient Oversight and Surveillance of Contractor Performance

FAR requires that each contract file include a copy of the COR's letter of designation, which authorizes the COR to perform contract oversight functions. The COR began performing COR duties as early as January 2016, and was named, via modification to the contract, in February 2016.¹⁸

✘ The COR's letter of designation was not signed until October 3, 2016.

Contract provisions require the contractor to submit a Quality Assurance Plan that describes the strategy and methods the contractor will use to ensure that the project is managed effectively, and that deliverables are of acceptable quality.

✘ This plan was not created and neither contract officials, nor program officials could explain why.

Contract provisions require the contractor, in collaboration with Census Bureau stakeholders, to create a Quality Control Plan (QCP), which includes the methodology the contractor will use to assure satisfactory services and deliverables. According to the contractor, the QCP was to be the "foundational document" to the contractor's approach to this contract, and ensure that the Bureau's objectives were met.

✘ Even though (1) the contractor's Technical Proposal, (2) the Bureau's Evaluation Summary and Best Value Award Recommendation, (3) the Determination and Findings, (4) the contract provisions, and (5) the contract base award each state that the contractor will provide a QCP, neither contracting officials nor program officials ensured that the QCP was delivered.

Contract provisions require Government personnel to follow a Contract Administration Plan that will include appropriate surveillance by government personnel as detailed in the Quality Assurance Surveillance Plan, as well as monthly status reports to ensure that milestones and deliverables are on track to support performance.

✘ The Quality Assurance Surveillance Plan includes no reference to a Contract Administration Plan.

Contract provisions require the contractor to conduct an audit every six months to run reports and inspect random samplings as specified.

✘ The contractor has not performed any such audits.

¹⁸ FAR § 1.604(a).

Contract provisions require bi-weekly meetings between program officials and the contractor no later than the 15th and 30th of each month to exchange information, coordinate and discuss activities, status, and risks, and highlight accomplishments for the previous reporting period.

An agenda is required no later than one day in advance of the meeting; meeting minutes shall be distributed no later than two days after the meeting.

✘ Evidence of bi-weekly meetings only goes back to February 14, 2017¹⁹ and does not include many of the requirements (e.g., meeting agenda or minutes).

Contract provisions and FAR require²⁰ that all invoices submitted for payment must be accompanied by individual daily timesheets, or other substantiation previously approved by contracting officials.

✘ Program officials neither required nor received individual daily timesheets, or other substantiation.

¹⁹ The contract was awarded December 14, 2015.

²⁰ FAR 53.232-7(a).

Appendix C: Potential Monetary Benefits

	Unsupported Costs	Funds to Be Put to Better Use
Finding II	\$1,854,385.44	\$11,132,002.56

Appendix D: Agency Response



UNITED STATES DEPARTMENT OF COMMERCE
Economics and Statistics Administration
U.S. Census Bureau
Washington, DC 20233-0001

February 5, 2018

MEMORANDUM FOR: Carol Rice
Assistant Inspector General for Audit and Evaluation

FROM: Ron Jarmin *RJ*
Performing the Non-Exclusive Functions and Duties of the
Director, U.S. Census Bureau

SUBJECT: "2020 Census: The Bureau's Background Check Office Is Not Fully Prepared for the 2020 Census" Draft Report Response

Thank you for the opportunity to provide comments on the December 18, 2017, draft report, "2020 Census: The Bureau's Background Check Office Is Not Fully Prepared for the 2020 Census," which assesses our policies and procedures for conducting background checks and whether we have a plan in place to conduct background checks for temporary employees who will be hired during 2020 Census tests and decennial field operations. The Secretary, Under Secretary for Economic Affairs, and I are fully committed to performing a high quality 2020 Census that fulfills our Constitutional mandate for a full, fair, and accurate count. We appreciate the Office of the Inspector General (OIG)'s continued efforts to highlight areas that may impact the security, safety, and integrity of the 2020 Census.

The objective of Census' background check program is in large part to ensure the safety of the millions of people in the United States who will be visited by or personally engage with a Census Bureau employee or temporary employee in 2020. The public's safety is paramount to the Census Bureau and is critical to the successful performance of our census operations including, but not limited to, the 2020 Decennial. In order to be fully successful in our mission to count every person in the United States once, only once, and in the right place, people must trust the Census employees and contractors who ask them for personal information. The Census Bureau therefore takes very seriously its obligation to ensure that the people it hires, especially those who conduct on-the-ground household surveys, do not represent a danger to any individual or community. The Census Bureau understands that a strong background check program is key to achieving this goal, and we appreciate the OIG's continued attention to it.

We will use the recommendations contained in the draft report to continue to strengthen and improve our background check program, which we view as a critical element in our overall efforts to ensure the American public can trust the Census Bureau field representatives and the Census Bureau's stewardship of their data. The Secretary and the Under Secretary for Economic Affairs have demonstrated their dedication to oversight in the actions they have already taken and we expect to benefit from this and their continued support as we address the findings in this report. Indeed, as discussed in greater detail below, the Census Bureau has already begun



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implementation of various process changes related to the findings of the draft report and we will continue to document steps taken to address those we have not already.

I. Background

In September 2015, the OIG issued Investigative Report 14-0790, “Allegations of Time and Attendance Fraud and Other Misconduct by Employees in the Census Hiring and Employment Check Office,” which concluded that many CHEC Office employees engaged in pervasive misconduct over several years, including widespread time and attendance abuse, misuse of office, and repeated attempts to retaliate against a perceived whistleblower. Among other recommendations, the 2015 report recommended Census consider: taking administrative action against CHEC Office employees, as appropriate; a change in CHEC Office leadership and personnel; revising or developing CHEC Office policies and procedures to ensure adequate quality control mechanisms are in place; and conducting a review of CHEC Office contracts and procedures.

As the draft report acknowledges, the Census Bureau put in place a comprehensive corrective action plan to address the 2015 report’s findings. Following the receipt of the OIG’s report, the Census Bureau conducted a supplemental investigation into the alleged misconduct in the CHEC Office and took disciplinary action against some employees. Those actions included initially placing the CHEC Office supervisory employees and those with access to sensitive information on administrative leave, and initiating appropriate disciplinary action, including dismissal where appropriate, against the employees the Census Bureau had determined had engaged in misconduct. Following the report, while new federal employees were hired and a new contract for support services was awarded, virtually all hiring and contractor employee vetting at the Census Bureau was at a standstill.

The office responsible for background checks of employees is now called Census Investigative Services (CIS). Since September 2015, it has been led by an experienced government manager who previously served as the Director, Personnel Security Division, Department of Housing and Urban Development. Beginning in September 2015, the Assistant Division Chief, CIS, began hiring a new federal staff and began, in coordination with Census’ Acquisition Division, to put in place new contract vehicles for support services. At the same time, the new Assistant Division Chief began drafting and implementing new policies and procedures for employee background checks and contractor on-boarding, based in part on a gap analysis conducted by the Department of the Interior’s Interior Business Center (IBC), which provides personnel security functions for several federal agencies.

II. Comments on Recommendations to the Director of the U.S. Census Bureau

- a. Use available data to estimate the number of staff needed to complete background checks to support the 2020 Census workload and assess whether a T&M contract is needed or if there are other, more efficient methods to control costs.**

Census accepts this recommendation and agrees that, as a general matter, firm fixed price type contracts that place the cost risk on the contractor are preferable to vehicles that shift the cost risk to the government. That said, we note that issuing a solicitation for a firm-fixed price contract that lacks the degree of specificity necessary for a prospective contractor to accurately estimate its costs of contract performance in advance and use that estimate to propose a fair and reasonable price also poses a risk to the government that offerors will inflate their proposed prices to compensate for the lack of certainty. In recognition of this risk, as the draft report states, FAR 16.601 provides that T&M type contracts are appropriate where it is not possible to accurately estimate the extent or duration of the work or to anticipate costs with any reasonable degree of certainty. As described above, in 2015, when the current support services contract was put in place, Census was disadvantaged by a lack of sufficient institutional knowledge to articulate the contract requirements with the degree of certainty necessary to enable prospective contractors to offer a firm-fixed-price to perform the work.

Further, the changes to the overall Decennial program design relative to the 2010 Decennial Census have resulted in major differences in the background check requirements. In particular, the 2020 Decennial Census has an increased emphasis on automation and an associated decrease in the number of temporary employees needed for Census operations. At the same time, there has been an increase in the number of additional contractors the Census Bureau needed to vet.

The modifications to the contract ceiling that the draft report notes (from \$6.8 million to just under \$13 million) demonstrates clearly the inability of Census at the time of contract award to accurately estimate its needs. Moving forward, CIS and ACQ, in close coordination with program offices across the Census Bureau, will work together to analyze the utilization of the current contract and Census' ongoing and future background check requirements and devise a strategic market research plan that will enable Census to more clearly definitize its requirements for future background check acquisitions in order to move away from T&M type contracts where feasible and use firm-fixed-price type contracts to the maximum extent possible.

b. Develop written policies and procedures that address supervisory and employee responsibilities in approving background check applications.

Census accepts this recommendation, but requests that the OIG make the following revisions to ensure the report includes all appropriate contextual information.

1. Page 5, "...officials informed us that supervisors have never used the checklist."

Census requests this be revised to note that while Census has not used the IBC checklist, the Census Hiring and Employment Check (CHEC) system includes a form that will be required for recommendations made by analysts and determinations approved by the supervisors. As of January 2018, supervisors must:

- Click on every form and select "Complete Form Review." Once completed, the date reviewed will be updated.

- Use the “Missing Required Forms” option to return a case to analyst to add additional required case details

Selected Suitability Request

Appointment Type	Requesting Organization Code	Requesting Organization	Bureau	Request Date	Case Status	Case Status Date	Position Sensitivity Level	Pre-employment Investigation Status	Post-employment Investigation Status
Schedule A	REGION (11-15-0067-20-31-76-64)	Denver (FLD)	BUREAU OF THE CENSUS	11/07/2017	Pre-employment Investigation 2	11/07/2017	OK (R)	Waiting Recommendations	Pending

[Missing Required Forms](#)
[Complete Form Review](#)
[Remove Form](#)

Once an investigation form has been reviewed, please update Review Status to “Completed”. Be sure to confirm Revision Number and Signature Date prior to marking a form as “Completed”.

Type	Name	Form Revision / Sub Type	Signature Date	Document Status	Checked In Date	Reviewed Date
BC-170	Census Employment Inquiry	N/A	11/08/2017	Checked in	11/8/2017 8:05 AM	
MISC	Copies of Identification	0	11/08/2017	Checked in	11/8/2017 8:05 AM	
DF-306	Declaration for Federal Employment	N/A	11/08/2017	Checked in	11/8/2017 8:05 AM	
SEAL01	FP Card - Employees (copy 1)	04/98	11/07/2017	Reviewed	11/7/2017 5:21 PM	11/7/2017 5:21 PM
SEAL02	FP Card - Employees (copy 2)	04/98	11/07/2017	Reviewed	11/7/2017 7:56 PM	11/7/2017 7:56 PM

[Save & Exit](#)
[Complete Review](#)

Form Review

Selected Form: Declaration for Federal Employment - (DF-306) [Click here](#) to view the document.

Form Revision:

Signature Date:

2. Page 5, “...it is not necessarily reflective of the period of time spent by the supervisor to actually review the case.”

Census further requests that the OIG revise this language to acknowledge that the following factors can influence the review time such as:

- Cases reviewed by a supervisor and returned to an analyst for data errors to be corrected or to request additional information; this would result in the supervisor accessing the record, reviewing the case, and returning it quickly.
- Supervisors may also have already reviewed a hard copy of all security documentation, therefore the review in the CHEC system is quick and confirms the scanned documentation mirrors the actual hard copy file.
- When reviewing a case, the supervisor is looking for “flags” or issues. If there are no targeted flags present, the case review can be completed quickly.

3. Page 5, “...the system should prevent a supervisor from approving his or her own work.”

- The Census Bureau also requests OIG include of the following statement after this sentence: “The Census Bureau confirms that in order to onboard new employees, there were times during late 2015 and early 2016 when supervisors worked cases as an analyst and supervisor

due to dramatically decreased staffing levels in the CHEC. In that timeframe, there were only 4 employees in the CHEC office. However, Census implemented process changes in early 2017 that prevent supervisors from approving their own work when they perform the analyst function.”

4. Page 5, “...there are no internal controls to prevent conflicts of interest....”

Census requests OIG include the following information, including the screenshot, into its discussion of Census’s efforts to prevent conflicts of interest.

- A system modification has been added, along with a warning message, which requires the analyst reviewing the case to confirm there is no conflict of interest.
- If the analyst knows the subject, the case will automatically be placed back into the pool for assignment to another analyst. The relationship status becomes a part of the CHEC notes within the system and verbiage has also been added to the Standard Operating Procedures.

Confirm Relationship with the Subject

I am not a relative, friend or have no personal knowledge of the subject

Yes | No

c. Evaluate whether the current contract is being managed as a personal services contract and make the necessary changes to prevent circumventing FAR.

Census accepts this recommendation and suggests one clarification on p.6 of the report, which states: “The Bureau has not been granted the authority to acquire services by contract....” We suggest the word “personal” be added before “services” to more accurately communicate the general prohibition on contracting for *personal* services without specific authority rather than non-personal support services. We agree that the method of contract performance and administration is as important as a pre-award determination in determining whether a contract for services circumvents the personal services prohibition. Census is committed to strengthening its contract administration procedures to ensure the current contract is not being performed or administered as a personal services contract. For example, it is emphasized to the COR and the supervisors that the work must be assigned and managed through the vendor’s program manager. Also the organizational chart has been revised to demonstrate the status of the contractors is different than the employees. As part of that effort, ACQ will provide training to the COR and CIS personnel regarding what constitutes a personal services contract and provide guidance on how to ensure neither the method of contract performance or administration violate the prohibition paying particular attention to the descriptive elements identified in FAR 37.104.

1. Train contracting and program officials to ensure they perform proper oversight and surveillance of service contracts.

Census accepts this recommendation. The Census Bureau's Compliance Officer and the Contracting Officer have already performed an initial review of available documentation and provided additional training and guidance to the COR and CIS management. The Compliance Officer and the Contracting Officer will continue to review all available information and work with the COR and CIS Management to provide supplemental training and guidance if it is determined to be necessary.

For the finding relating to billing voucher documentation, the COR will work with the contractor to obtain the daily timesheets and will perform a review of all documentation once they are received. In the event that any anomalies are identified, the Contracting Officer will work with the contractor to resolve them promptly. The Census Bureau's Budget Office (BUD) will also coordinate with ACQ to provide training on reviewing the contractor's invoices to apply to appropriate accounting classifications.

Additionally, ACQ will review the oversight and surveillance requirements included in the current contract with the COR to ensure there is a comprehensive understanding of roles and responsibilities. In the future, ACQ and program officials will ensure these requirements are considered at the solicitation development stage to ensure the program and contracting officials have a complete understanding of the oversight and surveillance requirements to be included in the contract and then again before contract performance begins.

d. Train program officials to charge salary costs appropriately.

The Census Bureau accepts this recommendation and is already providing annual training to both employees and supervisors on how to appropriately record time and attendance and the implications for potential violations of appropriations law if employees do not accurately record their hours against the correct project. Please see relevant excerpts from the annual time and attendance training required for employees and supervisors:

"Employee Responsibilities. All employees must:

- Use WebTA for time accounting purposes to accurately record time and attendance (T&A) and accounting codes.
- Understand the policies and procedures governing employee timekeeping.
- Know who is your timekeeper.
- Meet with your supervisor regarding your work schedule so that you understand how your work time is to be planned and allocated. Ensure the proper accounting codes are used for the projects you are assigned to work.
- Enter, validate and affirm the accuracy of your own T&A data in the WebTA system. Record and reflect your actual work time.
- Enter the following on your T&A and ensure all other fields are completed:
 - "Time In" & "Time Out" for hours worked (actual start and out time).

- “Absence Start” & “Absence End.”
- “Credit Hours Earned” & “Credit Hours Used.”
- Discuss with your supervisor changes to your work schedule (such as changes to your departure and arrival times) and changes to the accounts or project codes you charge prior to the change taking effect....”

The training informs employees of the impact of selecting the correct project code.

It states, “Did you know...”

- How you record your time among projects determines how costs are recorded among projects in the financial system and financial management reports.
- Inaccurate time reporting results in misrepresentation of the financial performance of Census programs.
- Census management relies on financial management reports to make decisions that affect the entire bureau.
- External sponsors of Census surveys rely on Census staff to account for their time accurately to ensure the sponsors are billed correctly.
- There are stringent laws governing the use and allocation of appropriated funds.
- Erroneous time keeping could result in violations of appropriation laws.
- Employee time reporting is available for review and audit by the Census Bureau’s Internal Controls Team, as well the Department of Commerce, and the Office of the Inspector General.
- If you need to correct or amend your time, you must seek approval from your supervisor before initiating the correction.”

The Census Bureau also annually includes language in both employees and managers’ performance plans to enforce the accurate recording of time and attendance. SES Plans include the requirement to “Promote a culture of compliance with Department of Commerce and Census Bureau time and attendance policies and procedures,” and supervisors’ plans include the requirement to review and certify the accuracy of time and attendance. This requirement cascades down to employee plans which include a critical element “time and attendance reports are prepared” and a performance measure that enforces accuracy.

The finding that program officials in CIS may not be recording their salary cost accurately could require some additional controls, at minimum the annual training will be reinforced across the CIS program with quarterly reminders of employees’ responsibilities and specific guidance for recording their time. Employees will be held accountable within the current performance plan requirements.

- e. **Verify the obligation of appropriated funds for background checks and determine whether they have apportioned and allotted correctly.**

Census accepts this recommendation. The OIG should consider including in the report that the 2020 Census program is assessed overhead to the Working Capital Fund (WCF) to fund services the program consumes, including background checks. The 2020 Census program makes arrangements with offices including CIS to fund the surge activity related directly to the 2020 Census ramp up. This means that the Census WCF could be used to pay for background investigations for Decennial employees and 2020 Census program funds provided directly to CIS for the purpose of surge expenses could be used to pay for background investigations for Decennial surge employees. Additionally, employees assigned to organizations other than Decennial Census could be assigned to 2020 Census work. For example, employees supervised by the IT Directorate and the Communications Directorate (and therefore organizationally coded to those Directorates) could be assigned to 2020 Census work and funded by the 2020 Census. In order to determine if there were any 2020 Census funds used for any other purpose than intended, the Census Bureau will need to verify through an investigation with all the relevant data what fund CIS employees were charging (WCF or Decennial). Then the Census Bureau will need to determine the funding source charged by each employee and contractor in the CIS employee's workload. For example, if a CIS employee was charging Decennial funding for work related to John Doe's background check and it is then found that John Doe was not working on project funded by Decennial project then the finding would be a potential violation of the purpose statute. The Census Bureau will initiate an investigation that will be submitted to the Office of General Counsel who will then determine whether an Anti-Deficiency Act violation concerning the obligation of appropriated funds has occurred. The investigation will follow the processes and procedures established by the Department of Commerce's Office of Financial Management and Office of General Counsel per the DOC *Accounting Principles and Standards Handbook* concerning the administrative control of funds.

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