

ABSTRACT FROM INVESTIGATIVE REPORT NO. 14-0408

June 2, 2015

The Office of Inspector General's Review of a Census Bureau Sole Source Award for Executive Search Services

On March 3, 2014, the Office of Inspector General (OIG) of the United States Department of Commerce was contacted by an executive search firm (Complainant), which alleged that the Census Bureau had improperly awarded a sole source contract for executive search services. The Complainant asserted that the sole source award and justification in support of the award were improper because several other firms were capable of providing the executive search services sought by Census. The Complainant argued that the contract “should have been open to full and open competition.” The Competition in Contracting Act (CICA) and Federal Acquisition Regulation (FAR) require that federal agencies award contracts after holding a full and open competition unless a specific exception applies.

The OIG interviewed individuals in Census's contracting office who were involved with the award of the sole source contract. These individuals reported that they had relied on assertions from a Census employee (Census Official). According to the contracting office, the Census Official claimed that only one particular headhunting firm (Headhunter) had the specialized experience and qualifications to do the work required. If true, this would have allowed Census to avoid holding a competition and to award the contract directly to that firm.

The OIG met with the Census Official to ask how the determination was made that only the Headhunter's firm—which had no website, no employees save the owner, no prior government experience, and was operated out of a private residence in another region of the country—could be the only firm capable of performing the executive search for Census. In the initial interview with the OIG, the Census Official could not provide specific information about the market research engaged in, but told OIG investigators that one of two senior executives (Senior Executive 1, Senior Executive 2), had recommended considering the headhunting firm that was awarded the sole source contract. Following this interview, on May 7, 2014, the OIG formally opened an investigation into the matter.

The OIG's investigation found that the Census Bureau, in attempting to recruit top talent to fill a critical position at the agency, failed to adhere to several rules and regulations related to federal contracting and recruiting. Specifically, the OIG found:

- Census did not comply with CICA and the FAR when it awarded a sole source contract to the Headhunter.
- Census did not comply with federal regulations governing the use of commercial recruiting firms.
- The acceptance of voluntary services from the Headhunter implicates the Antideficiency Act.

- Senior Executive I did not comply with Department policy by receiving services from the Headhunter without a contract in place.
- Senior Executive I did not comply with Department policy and government-wide guidance by using personal e-mail to conduct official government business.
- The Census Official did not comply with federal regulations in the procurement process that led to the contract award to the Headhunter.
- Census's Acquisition Division failed to perform its oversight function and did not appropriately advise Census officials with respect to the acquisition.

The contract that Census issued to the Headhunter had a maximum fee of \$55,000, and because Census did not hire a candidate that he identified, Census was not required to pay him. The OIG's investigation did not substantiate fraud or attempts by government employees to benefit themselves at the government's expense. In fact, the employees involved in the matter appeared to be motivated by a desire to ensure the success of Census's operation by attracting top talent from the private sector. Nevertheless, in attempting to ensure the agency's success, Census officials failed—sometimes intentionally—to comply with the rules and regulations governing the contracting process and official conduct.

The resulting investigative report presents a case study in how a federal agency can fail to follow the rules while attempting to recruit senior officials. The report should also serve to remind the Department that, as holders of the public trust, employees cannot set aside compliance and ethics in pursuit of the agency's success. While the rules and regulations constraining the government's actions with respect to contracting and hiring are many and complicated, federal employees cannot take shortcuts by ignoring them to achieve the agency's mission.

To illustrate how Census could have pursued its recruitment of top talent in compliance with the rules, the report concludes with a discussion of the various paths that Census could have taken, including by pursuing full and open competition or using the GSA Schedule to select a recruiting firm. The report also makes recommendations for Census to address issues going forward, including training for Census's acquisition staff regarding the requirements for sole source awards and legal review and approval of all sole source contracts requiring a justification prior to award.

The OIG's full report of investigation on this matter may be requested pursuant to the Freedom of Information Act (5 U.S.C. § 552). For more information or to file a request, visit the [OIG's website](#) and click "FOIA" at the bottom of the screen.