April 30, 2020

MEMORANDUM FOR: Dr. Steven D. Dillingham
Director
U.S. Census Bureau

FROM: Mark H. Zabarsky
Principal Assistant Inspector General for Audit and Evaluation

SUBJECT: *Management Alert: The Census Bureau Has Not Adjudicated Hundreds of Individuals Identified as Highest-Risk in OPM Background Investigations*
Final Memorandum No. OIG-20-023-M

Attached is a management alert on the U.S. Census Bureau's (the Bureau's) backlog of un-adjudicated U.S. Office of Personnel Management (OPM) background investigations. During our evaluation of the Bureau's 2020 address canvassing operation[1]—including the hiring of adequate staff who received timely background check processing—we were informed by the Department of Commerce's (the Department's) Office of Security (OSY) that more than 10,000 closed OPM investigations, some dating back to October 2014, have not received post-employment adjudication. Of these, more than 700 of the individuals have been deemed the highest risk, and nearly 300 of these individuals were employed by the Bureau in FY 2019. By failing to adjudicate background investigations with potentially serious suitability issues, the Bureau increases the risk to the public, as well as Bureau systems and facilities.

On February 19, March 27, and April 17, 2020, we discussed with Bureau managers our results, as well as our plans to issue an alert memorandum. This alert memorandum summarizes the results of our work.

Consistent with the Inspector General Act of 1978, as amended (IG Act),[2] we are notifying Bureau leadership of the potential major risks that could affect the Bureau.

We are not requesting a formal response to this management alert, as the key issues discussed in it were briefed to cognizant Departmental and Bureau officials in advance of issuance. This management alert will be posted to our public website.

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[1] Memorandum from the U.S. Department of Commerce Office of Inspector General, announcing the evaluation of the U.S. Census Bureau's 2020 Census address canvassing operation, #2019-347 (April 11, 2019).

[2] The IG Act establishes that offices of inspectors general will "provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action[.]" 5 U.S.C. App., § 2(3).

If you have any questions or concerns about this memorandum, please contact me at (202) 482-3884 or Terry Storms, Division Director, at (202) 482-0055.

Attachment

cc: Michael J. Walsh, Jr., Office of General Counsel
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Management Alert

The Census Bureau Has Not Adjudicated Hundreds of Individuals Identified as Highest-Risk in OPM Background Investigations

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Key Issues

The Census Bureau (Bureau) has not provided the effective oversight of its personnel suitability program necessary to ensure that required background investigations were completed in a timely manner:

- As of November 3, 2019, the Bureau has not adjudicated more than 10,000 U.S. Office of Personnel Management (OPM) background investigations, some of which date back to 2014.

- Almost 2,000 of these individuals had derogatory information that OPM deemed "moderate," "substantial," or "major."

- More than 700 had issues that OPM deemed "major." Almost 300 of these individuals worked for the Bureau in FY 2019, including roughly 70 who worked the address canvassing operation during fall 2019.

- More than a dozen individuals with derogatory information in their background investigation had access to Bureau facilities and information systems for 4 or more years; some of these individuals have positions the Bureau has deemed "high-risk" or "critical," including some working in information technology.

Due to the lack of oversight of its background check program, the Bureau cannot reliably attest to the suitability of its decennial workforce—increasing the risk of exposing the public, the Bureau's systems and facilities, and its employees to individuals who have not been properly vetted.

Proposed Actions for Change

Timely adjudication is vital to the Bureau's ability to take appropriate action to remove unsuitable staff. To address the potential impact on Bureau programs, the Bureau should (1) ensure that background investigations are properly and timely adjudicated, (2) implement requirements to improve governance over background checks, (3) coordinate resources to manage the workload of adjudications, and (4) take appropriate actions to remove unsuitable staff.

Background

Applicants who applied for positions that provide access to Bureau facilities (including decennial offices) and IT systems were required to undergo a full National Agency Check with Inquiries (NACI). The NACI process requires the completion of the Electronic Questionnaires for Investigation Processing (e-QIP), which the Bureau found to be challenging and which significantly slowed down the process of onboarding

applicants. This type of background investigation involves two phases: *pre-employment case review and suitability recommendation* and *post-employment adjudication*.[3]

The *pre-employment case review* is conducted by Census Investigative Services (CIS) and involves an analyst, who is either a federal employee or contractor, and a supervisor reviewing application documents[4] for the accuracy and completeness of all required forms. Analysts are contracted employees who make either a favorable or unfavorable recommendation regarding information contained in the forms. Supervisors are federally employed Bureau staff who either agree or disagree with the analyst's recommendation. If a favorable recommendation is approved by the supervisor, then an entry on duty (EOD) date is established and the pre-employment file is transferred electronically by CIS to OPM for a background investigation.

At this point in the process, the applicant begins work on the EOD—and continued employment is contingent on a favorable suitability determination for federal employment based on the *post-employment adjudication*. During this process, OPM conducts the background investigation—and, when negative information is identified, it has developed a systematic approach for evaluating the seriousness and relevance of suitability issues. OPM characterizes each issue according to seriousness and the potential for a negative suitability determination. Each identified issue is assigned one of four rankings: A–"minor," B–"moderate," C–"substantial," or D–"major."[5] A "D" would normally form the basis of a negative suitability determination.

After determination, OPM then electronically sends the background investigation file, along with the case seriousness categorization, back to CIS. OPM marks the investigations as "closed" and CIS staff must adjudicate the background investigation by making a final determination as to whether the employee is suitable for federal employment. CIS staff must adjudicate all investigations closed by OPM. If the information included in OPM's investigation results in CIS reaching a negative suitability determination for the position, the Bureau can remove the applicant from federal service.

We previously issued an audit and, more recently, Congressional correspondence reporting on CIS (formerly, the Bureau's Census Hiring and Employment Check office). In our February 2018 audit,[6] we reported that—while the Bureau has developed policies and procedures for conducting background checks on temporary employees—quality assurance weakness put those procedures' effectiveness at risk. The audit's findings specifically concerned high-risk contracts supporting background check quality

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[3] *Adjudication* includes reviewing the impact of any derogatory information from an investigation on an individual's suitability for federal employment.

[4] Application documents include Onboarding Submission for the Demographic Analysis and Population Projection System (DAPPS)/Census Hiring and Employment Check System (CHEC); Personnel Investigations Processing System (PIPS)/Clearance Verification System (CVS); Census Employee Inquiry (BC-170); Declaration for Federal Employment (OF-306); Fingerprints submitted via live scan or cards; verification of identification and U.S. citizenship; and Electronic Questionnaires for Investigations Processing (e-QIP).

[5] The *OPM Suitability Handbook* provides the following definitions for rankings: "moderate"—conduct or issue which, standing alone, would probably not constitute a negative determination under suitability, for any position; "substantial"—conduct or issue which, standing alone, would probably constitute a negative determination under suitability, for any position; "major"—conduct or issue which, standing alone, would constitute a negative determination under suitability, for any position. The term "standing alone" means there are no aggravating or mitigation considerations pertaining to the issue.

[6] DOC OIG, February 27, 2018. *2020 Census: The Bureau's Background Check Office Is Not Fully Prepared for the 2020 Census*, OIG-18-015-A. Washington, DC: DOC OIG.

assurance practices, the Bureau's inadequate monitoring of contractors, and accounting errors with the costs of activities such as the processing of background checks for decennial census applicants. More recently, in our December 2019 correspondence to a North Carolina delegation of members of Congress, we answered questions related to the Bureau's hiring of a registered sex offender in the Charlotte Area Census Office (ACO).[7] Based on our review, we found that—although current OPM requirements permit a person with criminal convictions to be hired into federal service, under certain conditions—the hiring of the individual in question did not follow OPM or Bureau guidelines. Both of these prior reviews highlighted to the Bureau and its stakeholders our concern about the governance of the Bureau's background check and investigation adjudication process for its decennial census hirings.

Our Observation(s) to Date

During our evaluation of the Bureau's 2020 address canvassing operation—which included one objective to review the Bureau's hiring of adequate staff who received timely background check processing—we were informed by the Department's Office of Security (OSY) that the Bureau had 6,068[8] closed OPM investigations, dating back to October 2014, that have not received post-employment adjudication. OPM guidelines state that investigations must be adjudicated within 90 days. OSY issued a memorandum to the Bureau on September 3, 2019, stating that "the un-adjudicated backlog and unacceptable cases need immediate attention." CIS staff notified OSY that Bureau management directed them not to adjudicate the investigations. CIS staff also informed us that Bureau management instructed them not to adjudicate OPM's closed investigations in order to process applicants for 2020 Census hiring.

The Bureau responded to the OSY memorandum on September 23, 2019, with a mitigation plan stating that the Bureau would (1) prioritize and complete work on post-investigation cases starting with a characterization of category D (major issue) to remove the existing backlog; (2) hire and train new staff to work on the post-investigation cases; and (3) retrain and reinforce with staff the importance of confirming that appropriate documents and information have been submitted to OPM.

Despite the mitigation plan, as of November 3, 2019, OPM's Overdue Adjudication Report includes 10,371 un-adjudicated background investigations for Bureau employees and contractors—1,948 of which had issues that OPM deemed "moderate," "substantial," or "major." To determine whether the employees with "moderate," "substantial," or "major" suitability issues were still working for the Bureau, we matched the un-adjudicated investigations with fiscal year (FY) 2019 Bureau payroll records. We found that 817 such employees worked for the Bureau during FY 2019, 204 of whom worked as temporary employees during the address canvassing operation. Of those 817 individuals, 298 had issues that OPM deemed "major" (its highest risk category). Table 1 shows the number of employees with "moderate," "substantial," or "major" still un-adjudicated suitability issues who worked for the Bureau in each fiscal year:

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[7] U.S. Department of Commerce Office of Inspector General, December 10, 2019. *IG Letter to NC Delegation re: the Census Bureau's Background Check and Hiring Process, OIG-20-012-M*. Washington, DC: DOC OIG.

[8] As of September 3, 2019, the number of un-adjudicated investigations was 6,068. As of November 3, 2019, the number of un-adjudicated cases had increased by 4,303 to a total of 10,371.

Table 1. Employees with Still Un-Adjudicated Background Investigations Who Worked for the Bureau by Fiscal Year and Seriousness

Fiscal Year	B (Moderate)	C (Substantial)	D (Major)	B, C, or D (TOTAL)
2014	25	8	4	37
2015	32	8	17	57
2016	40	9	26	75
2017	48	14	41	103
2018	118	41	110	269
2019	401	118	298	817

Source: OIG analysis, using the OPM Overdue Adjudication Report and Census Bureau payroll data

Because the Bureau did not adjudicate these investigations in a timely manner, 24 out of the 817 employees who worked for the Bureau during FY 2019 have had access to Bureau facilities and information systems for 4 or more years, despite OPM identifying suitability issues categorized as "moderate," "substantial," or "major." Of the 298 individuals with "major" issues working in FY 2019, 71 worked during the address canvassing operation during fall 2019.

Additionally, several of these employees are working in highly sensitive areas such as information technology. Table 2 shows the number of employees with suitability issues who worked for the Bureau in FY 2019 by the sensitivity of their position:

**Table 2. Bureau Employees Paid During FY 2019
by Position Sensitivity and Seriousness**

Position Sensitivity[a]	B (Moderate)	C (Substantial)	D (Major)	B, C, or D (TOTAL)
Critical-Sensitive IT	6	3	5	**14**
High Risk	8	4	4	**16**
High Risk IT	3	1	0	**4**
Moderate Risk	320	89	250	**659**
Moderate Risk IT	10	2	2	**14**

Source: OIG analysis, using the OPM Overdue Adjudication Report, Census background check data, and Census Bureau payroll data
[a] OPM provided the following definitions: "**critical-sensitive**"—potential exists to bring about a material adverse effect on national security, causing exceptionally grave damage; "**high risk**"—potential exists for exceptionally serious impact to the public's trust; position duties and responsibilities are especially critical to the agency or a program mission; "**moderate risk**"—potential exists for moderate to serious impact to the public's trust; position has duties and responsibilities of considerable importance to the agency or program mission.

A large number of employees with un-adjudicated background investigations presents a major risk for the Bureau. Individuals who have noted issues with honesty, loyalty, or other disqualifying offenses according to OPM may be more susceptible to bribery or other threats. Many of these individuals have positions deemed "high-risk" or "critical" by the Bureau, including some working in information technology.

Even with the Bureau's mitigation plan in place to respond to OSY's concerns, as of February 11, 2020, CIS stated that very little progress has been made to adjudicate the cases: only 4–8 cases have been reviewed and completed. Given the security vulnerability of Title 13 data,[9] personally identifiable information,[10] and personnel and payroll records, the Bureau must move quickly to complete these background checks and mitigate the risks.

Our Future Work

We will continue to monitor the Bureau's progress in adjudicating OPM background investigations—and the actions the Bureau takes to remove employees deemed unsuitable for federal employment.

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[9] Title 13 data is any respondent data collected by the Bureau for censuses, surveys, and other statistical work.

[10] Information such as names, telephone numbers and addresses.

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