

General Register Office for Scotland
information about Scotland's people

Scottish Census Steering Committee
Response to Controversy about CACI (UK)

September 2009

1. This paper seeks the Committee's view on whether more should be done to counter the criticisms of CACI (UK) as the census "back office" contractor.

Background

2. Before 2001, the census "back office" (particularly capturing the data from the questionnaires and processing the results ready for the statistical outputs to be calculated) was done in-house. For the 2001 Census, it was contracted-out for the first time. The contract was won by Lockheed Martin (UK), the United Kingdom (UK) subsidiary of a United States (US) firm with an international reputation in the specialised field of census data processing. The contract went generally well and our review afterwards concluded that contracting-out offered a good quality service at better value for money than carrying out the work in-house, largely because the in-house approach involved building up expertise in this complex field for a once in 10-years task.
3. For the 2011 Census, therefore, we decided that the work should again be contracted-out. We tendered the contract under the European Union (EU) procurement rules which apply to all public sector contracts. The best tender was from CACI (UK), which, like Lockheed Martin, is the UK subsidiary of a US company, with substantial census expertise (in particular, supporting the censuses in the Republic of Ireland in 2002 and 2006). The contract was let in June 2008. It covered a wider variety of "back office" services than in 2001: printing census questionnaires and other materials and providing a questionnaire for people to complete on the internet, as well as the task of capturing the data from the paper and internet questionnaires, and processing the results ready for the statistical outputs to be calculated. The contract involved preparing systems for the rehearsal in March 2009 and then ramping up, with any necessary adjustments in the light of lessons from the rehearsal, in preparation for the much larger volume of work for the census itself in March 2011.
4. However, on 27 July 2008 and 24 August 2008 the "Sunday Herald" argued that the contract should not have been awarded to CACI (UK) because its US parent, on contract to the US Government to provide interrogators, had been accused of torturing Iraqi prisoners at Abu Ghraib and because personal census data might end up in the hands of the US Government. Between then and December 2008, these themes were taken up in a variety of ways:
 - The Registrar General and Scottish Ministers received 29 letters from MSPs/MPs/MEPs.
 - There were letters to GROS and the Scottish Government (SG) from a further 17 other correspondents.
 - There was an online petition run by Scotland Against Criminalising Communities which attracted around 1,000 signatures.
 - A motion in the Scottish Parliament was signed by 23 MSPs (some of whom also wrote to Ministers or the Registrar General)
 - There were 4 requests for information under the Freedom of Information Act
5. CACI vehemently denies the accusations of involvement in the torture of Iraqi detainees in Abu Ghraib in late 2003. The US Government has taken no action against the firm (although it court martialled its own service personnel who faced similar allegations, and removed other firms from its tender lists). Law suits against the firm, raised by Iraqi civilians 4 years ago and renewed recently, have not been taken forward. So there is no

evidence that the allegations against the firm are well founded and unsubstantiated allegations cannot be used as a reason for refusing to contract with the company.

6. In the meantime, the other census departments let their equivalent contract to Lockheed Martin.

Action in the light of concern

7. Many correspondents argued that the contract should be terminated. The terms of the contract do allow termination “for convenience”, at the behest of the Registrar General as contracting authority. But substantial compensation would have been payable to CACI (UK). More important, the procurement would have had to be rerun or the work taken back in-house. In either case, that would have delayed work and threatened the census timetable. If a fresh procurement had been undertaken, there would have been no guarantee that a successful tenderer would have been free from involvement with the Iraq war or other activities of concern to our correspondents. It was therefore not feasible to answer that point of complaint.
8. But it was possible to do more to counter the concern that the appointment of a US-owned firm would give the US Government access to personal census information, for instance, through the US Patriot Act. This had been passed by the US Congress shortly after the terrorist attacks on 11 September 2001, to enhance the ability of the security services to prevent terrorism. In particular, the Act allowed US law enforcement officers to seek a “sneak and peak” warrant, allowing them secretly to enter a business, either physically or virtually, conduct a search and depart without taking any tangible evidence or leaving notice of their presence.
9. The US Government has never asked for personal census information nor have we the slightest indication that they will ever do so. But, because the confidentiality of census data is so important to the success of the census, and because it is impossible to rule out any possibility that the US Government would ever want such information, we had taken great care in drafting the conditions attached to the contract. It specifically prohibits disclosure, in a way which would include disclosure from CACI (UK) to its US parent. Moreover, since CACI (UK) is a UK registered company subject to UK law, and since both the Data Protection Act and the Census (Confidentiality) Act prohibit unauthorised disclosure of personal census information, that eliminated any risk of census data being accessed legally by the US authorities. The contract also makes clear that the data belongs to the Registrar General, remains under his control (in terms of the Data Protection Act) and must be returned to him once processing is complete. The data will be processed in Scotland and will remain here at all times, in both paper and electronic format. No US company has any access to the data. (Other security arrangements were also in place surrounding the contract, for instance, independent audit of security arrangements, but these were designed to cope with normal security requirements, rather than specifically with the Patriot Act.)
In short, the contract was carefully set up to prevent the sharing of information in a manner which would be vulnerable to the USA Patriot Act.

10. But, in the light of the concern which had been expressed, we concluded that we could and should do more, for instance to cover the unlikely possibility that CACI, faced with a theoretical request for information by the US Government using the Patriot Act, would have the invidious choice between refusing that request (and breaking US law) and in some way compelling its UK subsidiary to provide the information (thus breaking UK law, and the terms of the contract). We have therefore set up a new contract structure for the census in 2011 designed to minimise the role of CACI (UK) and in particular to distance it from personal census data. To underline the fact that it is the Registrar General who runs the census, not CACI (UK), we will set up a new operational management team to monitor the running of the data processing site. The Registrar General, not CACI (UK) as previously planned, will own and fully manage the IT equipment on which the full personal census database will be stored. It will be housed in a secure environment controlled by our staff, rather than by CACI (UK) as previously planned. The effect of these changes is that CACI (UK) staff will have no access to personal census data except, for the purpose of quality control and maintenance of the data processing systems and database, under the strict control of the staff of the Registrar General, who will ensure that it is physically impossible for CACI (UK) staff to remove information. All the actual work on the “back office” services, except for the design, development and maintenance of the data processing systems, will be carried out by UK or EU companies, to which the Patriot Act does not apply, rather than by CACI (UK).

Effect of further action

11. These changes in the contract were explained in “Scotland’s Census 2011: A Government Statement” (particularly paragraph 6.8), which was published in December 2008. Ministers and the Registrar General wrote to many of the correspondents, explaining the changed position.
12. During the rehearsal, however, Scotland Against Criminalising Communities (SACC - the moving force behind much of the earlier protest) advised people not to complete their census form, circulating a leaflet in the rehearsal areas and reinvigorating their online petition. We picked up the effect during the enumeration but the numbers appear to have been insignificant. From enumerator feedback, the issue was occasionally mentioned on the doorstep, and the telephone helpline received about six calls on it (out of around 700 in total). Although we know that some people boycotted the rehearsal as a result, we could detect no difference in response rate between areas where SACC leaflets had been delivered to each household and areas where they had not. It was impossible to capture all the media coverage generated during the rehearsal - particularly online (several websites covered the contractor issue) - but what we have found suggests that the positive greatly outweighed the neutral or negative. Negative publicity related to the contractor amounted to two short articles (four and five paragraphs, one in a local paper and one in specialist media) which were counteracted by five positive ones about the Scottish jobs generated as a result of the contract.

Next steps

13. Although it is unlikely that a boycott would seriously harm the census (a boycott of the 1991 census, on the more generally emotive subject of the “poll tax”, did not significantly damage the statistics), we would like to be sure that we have done all that we reasonably can to avoid one. Concern about the issue continues, although at a reduced level: there were 6 letters in March and 11 in April, plus a further 2 requests under the Freedom of Information Act.
14. On one view, a boycott for this reason in 2011 is unlikely. Many people in Scotland strongly oppose the war in Iraq and resent CACI (UK)’s involvement because of the work its parent has done for the US Government there, regardless of whether or not it was involved in any torture. But UK troops have left Iraq and the US President and UK Prime Minister who took us to war are no longer in office. By 2011, the issue may no longer be prominent.
15. Nonetheless, in addition to our web statement and media lines, there is more which we could do, along the following lines:-
 - CACI (UK) is seeking to balance the previous negative stories with more informed and positive coverage in UK business/IT/security media, using other areas of its business as evidence of how it already makes a positive difference to people’s lives, referring to the census contract (if at all) as part of a list of its wider activities.
 - We might invite the MSPs who have written to us about the contract, to a short presentation/Q&A session at Holyrood – aiming to listen to concerns, address them where possible and stressing the procurement rules and the absolute security of personal census information.
 - We might also hold a similar dialogue session for others who have written to us about the contract.
 - We will appoint a new PR supplier later this month and will discuss how to ensure positive coverage continues to outweigh any negative contractor stories.
16. We would welcome the advice of the Committee on whether that proposed action is well-judged, and whether there is more which we should be doing.

**General Register Office for Scotland
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