



Executive Summary:

The CFPB Can Strengthen Its Controls for Identifying and Avoiding Conflicts of Interest Related to Vendor Activities

2017-SR-C-004

March 15, 2017

Purpose

The Office of Inspector General conducted this evaluation to assess whether the Consumer Financial Protection Bureau (CFPB) effectively mitigates the risk of potential conflicts of interest associated with using vendors to support fair lending compliance and enforcement analysis. We focused on a contract for fair lending enforcement analysis and expert witness services. Our scope did not include identifying potential or actual conflicts of interest related to the CFPB's fair lending supervision contracts, and our findings are not reflective of all CFPB contracting practices. However, we reference the CFPB's conflict of interest management practices, rather than a particular division's practices, where our findings and recommendations have broader applicability. Our office is also conducting a separate review of the CFPB's contract solicitation, selection, and award process. To minimize the duplication of efforts, and after reviewing initial documentation associated with all CFPB fair lending contracts from the CFPB's inception in July 2011 through January 2016, we focused this evaluation on the CFPB's management of a fair lending enforcement vendor's potential conflicts of interest after the contract award.

Background

In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act created the CFPB and required the agency to establish an Office of Fair Lending and Equal Opportunity (OFLEO). OFLEO oversees and enforces certain federal laws, including the Equal Credit Opportunity Act and the Home Mortgage Disclosure Act, to ensure that consumers have fair, equitable, and nondiscriminatory access to credit. To assist in executing this fair lending oversight function, the CFPB contracted with a vendor to perform statistical analysis services that include estimating supervised institutions' compliance with fair lending laws and serving as an expert witness when needed. The CFPB's Office of the Chief Procurement Officer and the program office (in this case, OFLEO) share responsibilities for identifying, evaluating, avoiding, and mitigating potential conflicts of interest with CFPB vendors.

Findings

During the CFPB's engagement with the relevant vendor, the vendor's past and ongoing relationships with entities supervised by the CFPB heightened the risk of possible conflicts of interest and increased the need to actively manage this relationship in accordance with agency expectations. We did not identify any actual conflicts of interest from June 2012 through January 2016 between the vendor and the firms subject to the vendor's analysis. We did note that the vendor failed to disclose a relationship with a firm for nearly 2 years after the CFPB first included that firm on a task order. Although this firm was included in multiple task orders for potential analysis during those 2 years, the CFPB later confirmed that the vendor did not perform any work related to that firm.

We found that the CFPB can strengthen its controls for identifying and avoiding potential conflicts of interest by (1) ensuring that vendors comply with existing documentation requirements; (2) clarifying roles and responsibilities; and (3) better facilitating vendor disclosure of potential conflicts, or affirmation that no conflicts exist, at the issuance of each task order. In addition, although the CFPB currently performs some fair lending enforcement analysis internally, we found that the CFPB should evaluate the potential costs and benefits of performing more fair lending enforcement analysis internally.

Recommendations

Our report contains recommendations designed to strengthen the CFPB's identification and avoidance of potential conflicts of interest. The recommendations aim to reduce the agency's exposure to operational and reputational risk. In its response to our draft report, the CFPB concurs with our recommendations. The agency describes completed actions and planned activities to improve the CFPB's identification and avoidance of potential conflicts of interest.