

# PUBLIC SUBMISSION

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**Docket:** FAR-2016-0053

Federal Acquisition Regulation (FAR) Information Collections - 2016

**Comment On:** FAR-2016-0053-0009

Agency Information Collection Activities; Proposals, Submissions, and Approvals: Use of Data Universal Numbering System as Primary Contractor Identification (OMB Control No. 9000-0145)

**Document:** FAR-2016-0053-DRAFT-0006

Comment on FR Doc # 2016-02517

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## Submitter Information

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## General Comment

Dear Sir or Madame,

Global Witness recommends that the Office of Management and Budget decline the General Services Administration's request to continue using the DUNS Number. Global Witness supports the Federal government's establishment of a transparent and inclusive process that will result in an analysis of alternatives for the unique identification of entities working with the Federal government. We also reiterate that it is essential for this analysis to take into account cost considerations and protections for Federal taxpayers, and wish to make the following specific recommendations:

1. The U.S. government should meaningfully engage civil society in a transparent process when exploring alternatives to existing entity identifiers.
2. The U.S. government should move to a non-proprietary identifier such as the Global Legal Entity Identifier (LEI) or a similar, open system that provides visibility spanning the entire hierarchy of entity ownership and includes information on the real people who own or control them (often called "beneficial owners").
3. Bidders for Federal contracts and grants should be required to disclose information on their beneficial owners.

Thank you for your consideration of these comments. Please do not hesitate to contact me at [eschornick@globalwitness.org](mailto:eschornick@globalwitness.org) or (202) 580 - 9711 if you have any questions or would like to schedule a meeting.

Sincerely,

Eryn Schornick  
Policy Advisor

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## Attachments

OMB Control No. 9000-0145\_GlobalWitness\_20160411



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April 11, 2016

General Services Administration, Regulatory Secretariat (MVCB)  
Attn: Ms. Flowers  
1800 F Street NW  
Washington, DC 20405

**Re: Information Collection Number 9000-0145, Use of Data Universal Numbering System (DUNS)  
as Primary Contractor Identification**

Dear General Service Administration:

Global Witness is pleased to submit the following comment [concerning the use of the Data Universal Numbering System \(DUNS\) as the primary contractor identification](#). We welcome greater transparency among bidders for Federal contracts and grants as a vital mechanism to help the U.S. government better ensure high standards of performance and integrity among contractors, which is essential to combatting waste, fraud and abuse.

[Global Witness](#) is an international NGO that has been investigating the links between natural resources and corruption, conflict and human rights abuses for over twenty years, while analyzing a wide range of related crimes and predatory behavior globally. In doing so, we have found that these crimes often have two things in common: (1) they depend on anonymously incorporated companies to hide illicit activities and to move dirty money; and (2) authorities are spending huge amounts of time and money trying to determine who is ultimately behind these companies in order to stop them and their crimes.

In this context, Global Witness recommends that the Office of Management and Budget (OMB) decline the General Services Administration's (GSA) request to continue using the DUNS Number. Global Witness supports the Federal government's establishment of a transparent and inclusive process that will result in an analysis of alternatives for the unique identification of entities working with the Federal government. We also reiterate that it is essential for this analysis to take into account cost considerations and protections for Federal taxpayers, and wish to make the following specific recommendations:

1. The U.S. government should meaningfully engage civil society in a transparent process when exploring alternatives to existing entity identifiers.

2. The U.S. government should move to a non-proprietary identifier such as the Global Legal Entity Identifier (LEI) or a similar, open system that provides visibility spanning the entire hierarchy of entity ownership and includes information on the real people who own or control them (often called “beneficial owners”).
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The White House [lists](#) a number of actions it is taking to promote transparency and stem corruption worldwide in its Global Anticorruption Agenda. One of its six activities is centered upon [preventing corrupt actors from using anonymous companies](#) to launder the proceeds of corruption. The Treasury Department also recognizes a [gap in transparency in our financial system](#) where financial institutions often do not know the identity of the people behind the businesses that open accounts, thus making it easier for criminals and the corrupt, to move dirty money through anonymous companies.

[International business leaders](#) weighing in on the issue have stated that ending anonymous companies will mean more competitive markets, more stable financial systems and more sustainable development. According to Mo Ibrahim, a member of the B Team,<sup>1</sup> and founder of Celtel International and the Mo Ibrahim Foundation: “[I have never heard a legitimate case for the business, economic, or social function of anonymous companies.](#)”

In a recent report, the B Team provided [use cases](#) which demonstrate that “the business impetus for beneficial ownership transparency goes beyond compliance, contributing to risk management, and even in some instances, competitive advantages.” [Some examples of these use cases include](#) the value of beneficial ownership information in government procurement, as well as to identify and manage certain tax risks, and health and safety issues. Moreover, the Sustainable Purchasing Leadership Council, a group of businesses, governments, institutions, standards and certification bodies, and non-governmental organizations committed to sustainable procurement have [expressed its support](#) for beneficial ownership transparency, including in procurement.

Given the scale of procurement in the U.S.—[\\$445 billion in the fiscal year 2014](#) on Federal spending alone—there is significant vulnerability to fraud, waste and abuse. Global Witness is tracking cases that expose how owners of anonymous companies are ripping off innocent people and legitimate businesses around the world in our [online interactive map](#). Case studies in the map also demonstrate the ways that the corrupt and other criminals use anonymous companies to facilitate fraud in government contracting and to further abuses. Some examples include:

- A Pentagon supplier formed two shell companies in Wyoming and pretended they were largely owned by ethnic minorities to win government contracts so that he could [profit from supplying fake, substandard tractor trailer parts to the military](#).
- American conspirators used sham companies from North Carolina, Nevada and Tennessee to [steal more than \\$2 million from subcontractors](#) that they tricked into fulfilling U.S. procurement contracts.
- Defense contractors used a UAE-based anonymous company to [overcharge the U.S. government in a \\$48 million scheme](#) to supply food and water to troops in Afghanistan.

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<sup>1</sup> The B Team is a not-for-profit initiative formed by a global group of business leaders to catalyze a better way of doing business, for the wellbeing of people and the planet. Its vision for the future is a world which the purpose of business is to become a driving force for social, environmental and economic benefit. See <http://bteam.org/> for more information on The B Team.

- A US Lieutenant Colonel passed on information to a business owner and contractor to create the perfect bid, and [steal more than \\$20 million](#) from taxpayers and Afghan commando troops while transferring their loot through anonymous shell companies in Virginia and Massachusetts.
- A contractor deceived the Small Business Association while hiding behind his Portuguese employee to win preferential treatment and [fraudulently secure federal government contracts worth \\$31 million](#) through various means, including bribing a U.S. government official.

We are pleased that the Federal government plans to change the Federal Acquisition Regulation (FAR) and Code of Federal Regulations to [remove the proprietary references](#) to the Data Universal Numbering System (DUNS®) and instead refer to a “unique entity identifier.” The U.S. government has characterized the [purpose of a unique entity identifier](#), among other things, is to verify entity information and incorporation information, as well as to create transparency. The unique identification of entities receiving Federal awards is critical to ensure Federal dollars are awarded to responsible parties, awardees are paid in a timely manner, and awards are appropriately recorded and reported.

These are important objectives and success depends upon the collection, verification and publication of information about the real people who own or control entities receiving Federal awards, or beneficial owners. Until the unique entity identifier captures beneficial ownership information sufficiently, the identifier and related data element (under development as part of the implementation of the Digital Accountability and Transparency Act) will fall short of its added value in the government’s pursuit for transparency, integrity, optimal contract performance and the safeguarding of tax dollars.

#### **I. The identifier must provide visibility spanning the entire hierarchy of entity ownership**

The government should move to a non-proprietary identifier such as the [Global LEI](#) or a similar, open system. This approach will better enable the government to maintain a system that monitors the interrelationships of companies and their changes in ownership, and direct and indirect subsidiaries. This will provide a more comprehensive understanding of the performance and integrity of bidders before the federal contract is awarded. Moreover, in order to promote transparency and combat corruption costing the government amounts potentially well beyond the expense of moving away from the DUNS system, a new identifier must provide visibility spanning the entire hierarchy of entity ownership and include beneficial ownership information.

The U.S. government has been a champion in the search for a solution to the problem of anonymous companies, while not having made as much progress as hoped. It has endorsed broad and high-level principles on beneficial ownership transparency in the [G8](#) and [G20](#). Through the [Open Government Partnership](#) it has also committed to advocate for legislation on beneficial ownership transparency and to facilitate the display of integrity information of Federal contractors and grant recipients.

This opportunity should be taken to advance these commitments and maximize the impacts resulting from the collection of information on corporate ownership. The Administration has the power to act without Congress and address opaque corporate structures involved in Federal contracting by requiring that bidders disclose their ultimate beneficial owners, the real people who own or control them. Open contracting must also be part of the solution. Information about bidders, the award, contract and related documents, as well as beneficial ownership, should be placed in the public domain in an open data format. In fact, [statistics have shown a reduction in costs](#), fraud and corruption related to the contracting process when linked to open contracting.

These simple steps would demonstrate the U.S. government's leadership in the fight against corruption, and importantly, protect the government and taxpayers from real risk of waste, fraud and abuse.

## **II. The identifier must include beneficial ownership information**

In the U.S., it is essential for the government, the largest single purchaser in the global economy, to have access to beneficial ownership information for all bidders in order to conduct its own due diligence. Similarly, providing commercial actors access to this information would open new channels of fruitful due diligence along supply chains and among business partners. According to the B Team, access to beneficial ownership information is [important to identify and manage certain network and supply chain risks](#). Furthermore, small and medium size firms struggling to compete against dishonest competitors would have greater opportunities to [shine as legitimate, responsible actors](#).

For these reasons, information on bidders' and awardees' ultimate beneficial ownership should be collected and available to acquisition officers, and made public on a centralized website. As such, we support the public disclosure of this ownership information in the Federal Awardee Performance and Integrity Information System. Moreover, requirements concerning Federal contract bidders and awardees under a unique identifier should include information on their beneficial owners.

A more transparent operating environment, facilitated by the collection and publication of beneficial ownership information, leads to higher quality, cost efficient and more timely investment outcomes. It has the potential to open space for legitimate business to enjoy increased access to the market, while incentives emerge for suppliers to reduce costs as well as other costs over time—[creating the type of competition that drives innovation](#).

Recognizing these benefits, the [UK](#) and [World Bank](#) have promised to examine ways to collect and publish information about the real owners of companies participating in their procurement systems. Fair and equal reporting standards that are implemented and enforced will help to keep entities seeking Federal contracts and grants on a level playing field.

We look forward to providing further input and urge the inclusion of a requirement for the disclosure of beneficial ownership information in order to ensure the utmost utility of a unique identifier. We see this as a way for the Administration to advance practical strategies to combat the linkages between the corrupt and anonymously held companies in Federal procurement.

Thank you for your consideration of these comments. Please do not hesitate to contact me at [eschornick@globalwitness.org](mailto:eschornick@globalwitness.org) or (202) 580 – 9711 if you have any questions or would like to schedule a meeting.

Sincerely,

Eryn Schornick  
Policy Advisor