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**TO:** Ryan Burnette  
Office of Federal Procurement Policy

**FROM:** OMB Watch

**RE:** Request for Comment on Contracting Officers' Access to Relevant Integrity Information

**DATE:** September 17, 2012

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OMB Watch was founded in 1983 and has spent over twenty-five years advocating for government accountability, transparency and access to government information, and citizen participation in governmental processes. OMB Watch believes the federal government plays a vital role in the lives of every American and that it is incumbent upon the government to ensure that public funds are used effectively and efficiently for the benefit of the American public.

These comments are submitted in response to a Notice of Request for Comment from the Federal Procurement Policy Office on whether changes to current regulations and other guidance might improve contracting officers' access to relevant information about contractor business ethics in the Federal Awardee Performance and Integrity Information System ("FAPIIS"), 77 FR 42339 (Document Number 2012-17262).

To help contracting officials evaluate the business ethics of prospective contractors to ensure that potential federal award winners are responsible sources, FAPIIS should allow contracting officials to view integrity and compliance data for whole corporate hierarchies, and it should also provide information on regulatory compliance of those entities.

### **Integrity Information for Entire Corporation Should be Accessible to Contracting Officers**

DUNS numbers are assigned to individual physical locations. Because "[c]ontracting officers pull information from FAPIIS by the DUNS number that the offeror identifies in its proposal," FAPIIS limits the scope of information available to federal contracting personnel. Contracting personnel should not be confined to accessing contractor integrity data from a single physical location, but should instead be able to view information on the entire corporate entity that is responsible for the performance of the award. The financial benefits of winning an award accrue to the corporation. And in the case that the winning corporation is a subsidiary, the financial benefits of a federal award are ultimately reaped by the controlling corporation. Because of this, the integrity of the controlling legal entity and its relevant subsidiaries should be the criteria by which federal contracting personnel consider awards.

A single firm that has five production facilities and a separate headquarters location will have at least six DUNS numbers and therefore six separate entries in past performance databases. Using physical location as the boundary for considering integrity information means

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ignoring the past performance of the entity ultimately responsible for the performance of the contract. In the example above, it could be that the executive leadership of the firm that won a federal contract issued the directive to use substandard parts to fulfill the contract, resulting in poor marks for contract performance. Subsequent proposals from this firm may be made from one of the other production facilities, but because the DUNS number on the previous contract is not associated with the entire corporation, contracting personnel will not have access to the poor prior performance.

Corporate hierarchies can be incredibly complex. An OMB Watch analysis of federal contract data from FY 2011 shows that the 10 largest Department of Defense contractors are associated with 410 subsidiary companies. One of those contractors has 76 subsidiary companies associated with it. This complexity can obscure the past performance of dozens of subsidiary corporations from contracting officials looking at integrity information for a contractor represented by a single DUNS number. Contracting performance systems should include past performance and other relevant contractor integrity information associated with the entire corporate structure related to each DUNS number.

To ensure that the past performance and other integrity information on the corporate entity is accessible to federal contracting personnel, FAPIIS should be able to display all data related to the corporate structure of the offeror. Although DUNS data is not always completely accurate, it provides information on corporate hierarchies that can be used by FAPIIS. USAspending.gov uses this information to aggregate spending by parent company to show the public which parent firms are benefitting from federal contracts.

### **Regulatory Compliance Data Should be Accessible to Contracting Officers**

Federal contracting officers should also assess prospective contractors on their record of regulatory compliance. Business ethics and corporate responsibility assessments should not be limited to a record of suspensions, debarments, past performance, or other legal findings. They should also include histories of compliance with labor, environmental, health, and consumer safety regulations. Like contractors that violate contracting rules, corporations that have been found to be not in compliance with federal regulations have a demonstrated record of transgression. Contracting officers should consider this history as relevant to potential future behavior.

### **Improved Corporate Identification System Needed**

OMB Watch does not believe that use of the DUNS should be continued indefinitely. In our experience working with federal spending data, we have found inconsistencies in parent-subsidary information in the DUNS. And because DUNS is a proprietary system, inaccessible to public inspection, its accuracy cannot be assessed by outside parties. Additionally, it is not subject to many federal information transparency policies, including Freedom of Information Act requests.

And because DUNS data remains locked in Dun & Bradstreet's (the owner of DUNS) data systems, the federal government is extremely vulnerable to suspension of DUNS number services, potentially leaving the federal government without a system to identify its contractors. Additionally, the DUNS system is flawed because historical ownership information on contractors is lost when a parent company divests itself of one of its subdivisions. For example, after Halliburton sold off a subsidiary, KBR, in 2007, billions of dollars of Iraq War contracts awarded to Halliburton no longer appear in USAspending.gov as having been awarded to Halliburton.

Because of this lack of transparency and other issues, we believe the federal government should develop and use an open, non-proprietary entity identification system that meets the needs of the myriad federal data systems that use private entity identifiers (e.g, federal spending, labor standards, health, and environmental impact).

Thank you for your consideration of these comments. Please do not hesitate to contact us at (202) 234-8494 if you have any questions.

Respectfully,

A handwritten signature in black ink, appearing to read 'Craig Jennings', with a stylized flourish at the end.

Craig Jennings  
Manager of Federal Spending and Contracting Policy  
OMB Watch