

April 28, 2016

Dr. Karen Pica
Management Analyst, Office of Federal Procurement Policy
Office of Management and Budget
Executive Office of the President
725 17th Street, NW
Washington, DC 20503
VIA EMAIL: kpica@omb.eop.gov

Dear Dr. Pica,

We, the 24 undersigned organizations understand that the White House views the development of the Third Open Government Partnership National Action Plan as an iterative process and will create an updated plan, or version 3.1. This will be an important opportunity for the Obama Administration to continue consolidating the gains in transparency that it has championed over the past seven years and to institutionalize them for the future. While we recognize that the updated plan is in its earliest conceptualization phase, we urge the Administration to include commitments to beneficial ownership transparency and contract transparency in federal procurement.

Many US states rank among the easiest places in the world to form companies without revealing the identity of the people who ultimately own or control them (often called “beneficial owners”). Years of research demonstrate that the US is a favored place for incorporating anonymously-owned companies that have been used to hide stolen assets; bribe public officials; evade sanctions; dodge taxes; and launder drug money. They have also been used to defraud vulnerable Americans, businesses and the government, including through public procurement. The result of such fraud harms all of us in the form of lower quality infrastructure and services, higher prices, wasted tax dollars and decreased trust in government.

In one instance a Pentagon supplier formed two shell companies in Wyoming and pretended they were largely owned by ethnic minorities to win preferential treatment for government contracts so that he could profit from supplying substandard parts to the military. These schemes happen all too often. In another, conspirators used sham companies from North Carolina, Nevada and Tennessee to steal more than \$2 million from subcontractors that they tricked into fulfilling contracts.

Federal procurement is an important area where the Administration has the authority to act without Congress and to significantly impact the devastating consequences of fraud, waste and abuse. To address this issue, the Administration should commit to:

Collect and verify beneficial ownership information for all bidders for federal funds and make all beneficial ownership, award and contract information publicly available for free and in a machine-readable, open data format, such as the Open Contracting Data Standard.

Beneficial ownership transparency reduces incidents of conflicts of interests and cronyism in contracting, and it prevents individuals who are prohibited from winning contracts due to suspension, debarment or criminal conviction from evading those bans. Statistics have also shown a reduction in costs, fraud and corruption related to the contracting process when linked to open contracting.

Moreover, as a matter of public interest that involves taxpayer funds, and the exposure to high levels of risk and corruption, we believe that the public has the right to know how its money is being spent and who is benefiting from those funds. Therefore, companies should be required to demonstrate, as a matter of best practice, a commitment to business integrity and transparency.

All companies in the federal procurement system should disclose beneficial ownership information so that contracting officers have the information they need to make accurate responsibility determinations. This includes publicly traded companies, as the Federal Funding Accountability and Transparency Act (FFATA) of 2006, expanded by the Digital Accountability and Transparency Act of 2014, makes no exemptions for such companies involved in federal procurement from making disclosures, aside from one instance under FFATA guidance created by the Office of Management and Budget concerning executive compensation.¹

Providing commercial actors with access to beneficial ownership information would open new channels of fruitful due diligence along supply chains and among business partners. Small and medium size firms struggling to compete against dishonest competitors would have greater opportunities to shine as legitimate, responsible actors. Furthermore, with this information investors can better conduct the necessary due diligence to protect the long-term value of their investments and to ensure their own responsible business conduct.

These practical steps toward greater transparency in federal contracting fit well within existing due diligence obligations across agencies established to ensure that federal data is more accessible and that program delivery is more effective. We are pleased to offer these comments and specific recommendations on beneficial ownership transparency and contract transparency in federal procurement for inclusion in an updated US Open Government Partnership National Action Plan.

Please contact Eryn Schornick at eschornick@globalwitness.org or (202) 580 - 9711 for additional information or to schedule a meeting.

Sincerely,

Alliance for a Just Society
Citizens for Tax Justice
Demand Progress
EG Justice
Enough Project
Financial Accountability and Corporate Transparency (FACT) Coalition
Fair Share
Global Financial Integrity
Global Integrity
Global Witness
Greenpeace USA
Investors Against Genocide
iSolon.org

¹ Office of Management and Budget, Memorandum for Senior Accountable Officials, August 27, 2010, available at, https://www.frs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reportin_g_08272010.pdf.

Main Street Alliance
Natural Resource Governance Institute
Open Contracting Partnership
OpenCorporates
OpentheGovernment
Oxfam America
Project on Government Oversight
Project on Organizing, Development, Education and Research (PODER)
Sunlight Foundation
Transparency International-USA
US Public Interest Research Group (PIRG)

cc: Mary Beth Goodman, Senior Director for Development & Democracy, National Security Council
Shaun Donovan, Director, Office of Management and Budget
Corinna Zarek, Senior Advisor for Open Government to the US Chief Technology Officer, Office
of Science and Technology Policy