

October 28, 2016

The Honorable Jason Chaffetz
United States House of Representatives
Chairman, U.S. House Committee on Oversight and Government Reform
2236 Rayburn House Office Building
Washington, DC 20515

The Honorable Elijah Cummings
United States House of Representatives
Ranking Member, U.S. House Committee on Oversight and Government Reform
2230 Rayburn House Office Building
Washington, DC 20515

Dear Representatives Chaffetz and Cummings:

We, the 25 undersigned organizations respectfully request that the U.S. House Committee on Oversight and Government Reform call upon the Administration to explore potential alternatives to existing entity identifiers for entities working with the federal government without delay,¹ where any alternative is an open system and includes the collection and publication of beneficial ownership information. Civil society should be meaningfully engaged in a transparent process when such alternatives are assessed.

Many U.S. states rank among the easiest places in the world to form companies without revealing the identity of the people who ultimately own and control them (often called “beneficial owners”).² Research shows that anonymously-owned companies are easily formed in the U.S. and are being used to defraud businesses, taxpayers and the government in public procurement.³ The result of such fraud harms all of us in the form of increased national security threats, lower quality infrastructure and services, higher prices, wasted tax dollars and decreased trust in government.

In one instance, a U.S.-Afghan contractor funneled at least \$3.3 million of U.S. taxpayer dollars to notorious Afghan powerbrokers, who deliberately hid their ownership interests in companies within the contractor’s network to avoid association with the insurgency. These individuals in turn funded the purchase of weapons for the Taliban and insurgents. In another scheme, a Pentagon supplier formed

¹ On two separate instances the Administration has committed to conducting an alternative analysis to evaluate a possible replacement for the Data Universal Numbering System (DUNS) Number; however, the analysis has not begun. Department of Defense, General Services Administration and National Aeronautics and Space Administration, Federal Acquisition Regulation; Unique Identification of Entities Receiving Federal Awards, November 18, 2015, available at <https://www.gpo.gov/fdsys/pkg/FR-2015-11-18/pdf/2015-29414.pdf>; Karen Lee, Branch Chief, Office of Federal Financial Management, OMB, DATA Act Summit 2016: Leadership Panel, DATA Act Summit, Washington, DC, May 26, 2016, available at <https://vimeo.com/170670985> (Q/A at 43:05-48:00).

² Mike Findley, Daniel Nielson and Jason Sharman, Global Shell Games, 2014, available at <http://www.globalshellgames.com/>.

³ See Global Witness, Hidden Menace: How secret company owners are putting troops at risk and harming American taxpayers, July 12, 2016, available at <https://www.globalwitness.org/en/reports/hidden-menace/>; Global Witness, The Great Rip Off, Anonymous company owners and the threat to American interests, September 25, 2014, available at <https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/great-rip-off/> (including the ways in which owners of anonymous companies are ripping off America’s national security, U.S. taxpayers, the vulnerable, businesses and investors, poor countries and democracy).

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.

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

Adopt a non-proprietary identifier, such as the Legal Entity Identifier (LEI) or a similar, open system that makes the hierarchy of entity ownership transparent by requiring bidders for federal contracts and grants to disclose information on the real people who own and control them (often called “beneficial owners”).

The U.S. government has characterized the purpose of a unique entity identifier as it relates to federal spending transparency, among other things, is to verify entity information and incorporation information, as well as to create transparency.⁴ It also recognized that an identifier for entities receiving government funds is critical to ensure that federal dollars are awarded to responsible parties, that awardees are paid in a timely manner, and are appropriately recorded and reported.⁵

To achieve these objectives, information about the beneficial owners of entities receiving federal awards must be collected and made publicly available. Moreover, until the unique entity identifier captures beneficial ownership information sufficiently, the identifier and related data elements being implemented by the Digital Accountability and Transparency Act of 2014 will fall short of its added value in the government’s pursuit for transparency, integrity, optimal contract performance and the safeguarding of tax dollars. This approach will also significantly strengthen the federal requirement that companies disclose certain entity ownership and predecessor information into the System for Award Management and published in the Federal Awardee Integrity and Information System.⁶

These practical steps toward greater transparency in federal contracting and spending 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.

⁴ Federal Spending Transparency Data Act Collaboration Space, Elements: Awardee/recipient unique identifier, awardee/recipient legal entity name, ultimate parent unique identifier number, ultimate parent legal entity name, July 13, 2015, available at <https://fedspendingtransparency.github.io/whitepapers/unique-id-business-name/>.

⁵ Department of Defense, General Services Administration and National Aeronautics and Space Administration, Proposed Rules, Federal Acquisition Regulation; Unique Identification of Entities Receiving Federal Awards, November 18, 2015, available at <https://www.gpo.gov/fdsys/pkg/FR-2015-11-18/pdf/2015-29414.pdf>.

⁶ Department of Defense, General Services Administration and National Aeronautics and Space Administration, Federal Acquisition Regulation; Information on Corporate Contractor Performance and Integrity, March 7, 2016, available at <https://www.gpo.gov/fdsys/pkg/FR-2016-03-07/pdf/2016-04773.pdf>; Department of Defense, General Services Administration and National Aeronautics and Space Administration, Federal Acquisition Regulation; Commercial and Government Entity Code, May 30, 2014, available at <https://www.gpo.gov/fdsys/pkg/FR-2014-05-30/pdf/2014-12387.pdf>. Information disclosures are required by Federal Acquisition Rule (FAR) Subparts 52.204-17 and 52.204-20, requiring the highest-level and immediate ownership information, predecessor information, and subsidiaries. FAR Subpart 4.1801 defines “highest-level owner” to mean “the entity that owns or controls and immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest level owner.”

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

Sincerely,

American Sustainable Business Council
Citizens for Tax Justice
Data Coalition
Demand Progress
EG Justice
Enough Project
Fair Share
Financial Accountability & Corporate Transparency (FACT) Coalition
Global Financial Integrity
Global Integrity
Global Witness
Government Accountability Project
Greenpeace USA
Investors Against Genocide
Main Street Alliance
Natural Resource Governance Institute
New Rules for Global Finance
Open Contracting Partnership
OpenCorporates
OpentheGovernment.org
Oxfam America
Project on Government Oversight
Project on Organizing, Development, Education, and Research (PODER)
Transparency International – USA
U.S. Public Interest Research (PIRG)

cc: Mary Beth Goodman, Senior Director
for Development & Democracy,
National Security Council
Sean Donovan, Director, Office of
Management and Budget
Dr. Karen Pica, Management Analyst,
Office of Management and Budget
Corinna Zarek, Senior Advisor for Open
Government to the US Chief Technology
Officer, Office of Science and
Technology Policy
The Honorable John Mica
The Honorable Michael Turner
The Honorable John Duncan
The Honorable Jim Jordan

The Honorable Tim Walberg
The Honorable Justin Amash
The Honorable Paul Cosar
The Honorable Scott Desjarlais
The Honorable Trey Gowdy
The Honorable Blake Farenthold
The Honorable Cynthia Lummis
The Honorable Thomas Massie
The Honorable Mark Meadows
The Honorable Ron Desantis
The Honorable Mick Mulvaney
The Honorable Ken Buck
The Honorable Mark Walker
The Honorable Rod Blum
The Honorable Jody Hice

The Honorable Steve Russell
The Honorable Buddy Carter
The Honorable Glenn Grothman
The Honorable William Hurd
The Honorable Gary J. Palmer
The Honorable Carolyn Maloney
The Honorable Eleanor Holmes Norton
The Honorable William Lacy Clay
The Honorable Stephen Lynch
The Honorable Jim Cooper
The Honorable Gerald E. Connolly

The Honorable Matt Cartwright
The Honorable Tammy Duckworth
The Honorable Robin Kelly
The Honorable Brenda Lawrence
The Honorable Ted Lieu
The Honorable Bonnie Watson Coleman
The Honorable Stacey E. Plaskett
The Honorable Mark Desaulnier
The Honorable Brendan F. Boyle
The Honorable Peter Welch
The Honorable Michelle Lujan Grisham