



February 26, 2016

General Services Administration
Regulatory Secretariat Division (MVCB)
1800 F Street, NW
Washington, DC 20405

ATTN: Ms. Flowers
Re: IC 9000-0145, Use of Data Universal Numbering System (DUNS) as Primary Contractor Identification

To Whom It May Concern:

The Data Coalition¹ (the "Coalition") appreciates the opportunity to comment on the Regulatory Secretariat's proposed extension² of its previously-approved information collection requirement concerning the use of the Data Universal Numbering System (DUNS) as primary contractor identification.

The Coalition is the nation's only open data trade association. Representing leading technology companies, we support the transformation of government information into open, machine-readable data.

Since 1996, the General Services Administration used the DUNS to identify federal contractors. The DUNS assigns each contractor a DUNS Number, which is then used throughout the GSA's and other agencies' procurement and financial systems. As a result, the DUNS Number is the essential data element for any effort to track federal contractors, their contract awards, their performance, and related information.

The DUNS is operated by Dun & Bradstreet, Inc. ("D&B"), itself a federal contractor, under a government-wide contract with the GSA. Under that contract, the DUNS Number is the property

¹ www.datacoalition.org.

² See GSA Regulatory Secretariat, Notice of request for public comments regarding an extension to an existing OMB clearance, Use of Data Universal Numbering System (DUNS) as Primary Contractor Identification, Feb. 9, 2016, available at <https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-02517.pdf>.

of D&B. Federal contractor data organized by DUNS Number cannot be accessed or used in bulk without D&B's license.³

The proprietary nature of the DUNS Number inhibits the public transparency of federal contracting information. Federal contracting information - and any other federal data that contains DUNS Numbers - cannot be freely exchanged except among D&B licensees. The federal government's flagship spending transparency website, USASpending.gov, prominently features a disclaimer warning users that although they can view individual contractor records organized by DUNS Number, they cannot perform any bulk actions, such as downloads or broad searches.⁴ Taxpayers are barred from fully using information about how their own tax dollars are spent.

The proprietary nature of the DUNS Number also inhibits the federal government's own use of federal contracting information. Agencies not covered by the government-wide GSA contract cannot publish, analyze, or use their own contracting data unless they separately contract with D&B.⁵

In 2012, the Government Accountability Office performed an audit of the federal government's use of the DUNS and the DUNS Number to identify contractors.⁶ The GAO reported that D&B's monopoly contributed to higher costs; raised concerns about conferring on D&B an unfair advantage over competitors for data analysis business; hindered efforts to check the data for quality; and prevented the government from fully utilizing its own contracting data.⁷ However, a nonproprietary alternative to the DUNS Number did not exist.⁸ The GSA's ongoing use of the DUNS and the DUNS Number was last approved by OMB on April 26, 2013.⁹

The situation has changed since the 2012 GAO audit and since the last time OMB approved the GSA's use of the DUNS and the DUNS Number.

First, a nonproprietary alternative now exists. The Legal Entity Identifier, a global nonproprietary identification code, was announced by the Group of 20 (G20) in June 2012.¹⁰ A nonprofit entity to maintain the LEI, known as the Global LEI Foundation, began operations in 2014.¹¹ The LEI is mandatory for over 40,000 U.S. entities engaging in derivatives transactions and its use has

³ See USASpending.gov, Limitation on Permissible Use of Dun & Bradstreet, Inc., Data, available at <https://www.usaspending.gov/pages/db.aspx> (accessed Feb. 26, 2016).

⁴ *Id.*

⁵ See Colby Hochmuth, *Federal Computer Week*, "Who really owns that government data?," Sept. 16, 2014, <http://fcw.com/articles/2014/09/16/who-owns-gov-data.aspx> (reporting on pending removal of information on federal contracting from Recovery.gov stimulus transparency website).

⁶ Government Accountability Office, *Government is Analyzing Alternatives for Contractor Identification Numbers*, June 12, 2012, <http://www.gao.gov/products/GAO-12-715R> ("GAO Report").

⁷ GAO Report at 1-2.

⁸ GAO Report at 11.

⁹ See http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201204-9000-003 (accessed Feb. 26, 2016).

¹⁰ See Financial Stability Board, *Legal Entity Identifier*, available at <http://www.fsb.org/what-we-do/policy-development/additional-policy-areas/legalentityidentifier/> (accessed Feb. 26, 2016).

¹¹ See Global LEI Foundation, *History*, available at <https://www.gleif.org/en/about/history#> (accessed Feb. 26, 2016).

been proposed in many other U.S. regulatory reporting regimes.¹² Globally, 15% of entities with a credit rating and 14.5% of entities that are listed on global exchanges now have LEIs.¹³

Second, with the DATA Act of 2014,¹⁴ Congress centralized authority over the data fields used to identify recipients of federal grants, contracts, and other assistance. The DATA Act required Treasury and OMB to establish a common, interoperable identification code for all recipients.¹⁵ On September 1, 2015, Treasury and OMB announced that the DUNS Number would continue to be used, for the time being, for this purpose.¹⁶ However, with public comments heavily opposing the DUNS Number,¹⁷ they also promised to conduct a transparent, public process to evaluate alternatives.¹⁸

Third, on November 18, 2015, the three agencies responsible for overseeing the Federal Acquisition Regulation (FAR) proposed to eliminate the FAR's regulatory mandate for the DUNS Number's use.¹⁹ With the elimination of this legal requirement, the remaining barrier to a full re-evaluation of the GSA's government-wide contract with D&B will be removed.²⁰

Under the Paperwork Reduction Act, the GSA has now requested public comment on (among other things) ways to enhance the quality, utility, and clarity of the information it is collecting through the DUNS and by means of the DUNS Number.²¹ In reviewing proposed information collections under the Paperwork Reduction Act, the OMB Director must consider (among other things) how to "maximize the practical utility of and public benefit from" contractor information.²²

¹² See LEI Regulatory Oversight Committee, Progress Report, Nov. 5, 2015, *available at* http://www.leioci.org/publications/gls/lou_20151105-1.pdf (Table summarizing adoption of LEI by various regulators and jurisdictions).

¹³ See, e.g., Sean McMahon, SmartBlog on Finance, *OFR's Berner stresses importance of LEI adoption*, April 17, 2015, <http://smartblogs.com/finance/2015/04/17/ofrs-berner-stresses-importance-of-lei-adoption/>.

¹⁴ Digital Accountability and Transparency Act of 2014, Pub. L. No. 113-101 (May 9, 2014) ("DATA Act").

¹⁵ DATA Act sec. 4 (a)-(b).

¹⁶ See Office of Management and Budget blog, *Standardizing and Simplifying the Government's Data on Federal Spending*, Aug. 31, 2015, <https://www.whitehouse.gov/blog/2015/08/31/standardizing-and-simplifying-government's-data-federal-spending>.

¹⁷ See Adam Mazmanian, *Federal Computer Week*, "Dump-DUNS caucus weighs in on the Data Act," <https://fcw.com/articles/2015/05/15/data-act-implementation.aspx>.

¹⁸ See FAR Council, Proposed Rule, Federal Acquisition Regulation; Unique Identification of Entities Receiving Federal Awards, Nov. 18, 2015, *available at* <https://www.federalregister.gov/articles/2015/11/18/2015-29414/federal-acquisition-regulation-unique-identification-of-entities-receiving-federal-awards> ("FAR Notice") ("Going forward, the Federal Government will establish a transparent process for exploring potential alternatives to existing entity identifiers. Office of Management and Budget (OMB) and Treasury, in collaboration with the General Services Administration and the Award Committee for E-Government will establish a process for considering options, including soliciting information about viable alternatives from and reaching out about nonproprietary alternatives to all sectors, including private companies, nonprofits, and Federal government providers").

¹⁹ FAR Notice.

²⁰ See GAO Report at 7 ("GSA officials told us the DUNS contracts have been sole-source awards because of the FAR requirement that all government contractors obtain a DUNS number, and because they have been unable to identify an acceptable alternative").

²¹ 44 U.S.C. 3506(c).

²² 44 U.S.C. 3504(c)(4).

The proprietary nature of the DUNS Number clearly inhibits the utility of contractor information for both the taxpaying public and the federal government. A nonproprietary alternative now exists, Congress has now conferred statutory authority to make a government-wide change, and the FAR is now being amended to allow a future transition.

Under the standard imposed by the Paperwork Reduction Act, OMB should not approve the GSA's request to continue using the DUNS and the DUNS Number without amendment. Before approval, OMB should direct GSA to amend its request to include a specific plan, with deadlines and public consultation, for a transition away from a proprietary contractor identifier.

Sincerely,

/s/ Hudson Hollister

Hudson Hollister
Executive Director
Data Transparency Coalition

CC: Hon. Jason Chaffetz, Chairman, House Committee on Oversight and Government Reform; Hon. Elijah Cummings, Ranking Member, House Committee on Oversight and Government Reform; Hon. Ron Johnson, Chairman, Senate Homeland Security and Governmental Affairs Committee; Hon. Tom Carper, Ranking Member, Senate Homeland Security and Governmental Affairs Committee; Hon. Gene Dodaro, Comptroller General