

Identifying US Government Contractors¹
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The unprecedented growth in government contracting since the 1980s and, in particular, the growth of contracting for services has given rise to concerns about contractor accountability and government transparency. Yet both the government and public lack the information necessary to identify contractors and their conflicts of interest.

In order to monitor contractors and hold them accountable, it is necessary to know who they are. For example, in order to debar a fraudulent company from contracting the government must be able to identify the company if it bids again. It is also necessary to know how the contractor company is related to other companies. Contractors may not be single companies but part of a complex family of companies, with parents, subsidiaries, and affiliates. The relationships among related companies are important because they may create organizational conflicts of interest by forming the basis for shared information, coordinated action, or the creation of perverse incentives.² The Federal Acquisition Regulation (“FAR”) requires government contracting officers to identify, avoid, neutralize, and mitigate organizational conflicts of interest.³

Discovering the identity and organizational structure of businesses is not easy, however. Businesses can change locations, unrelated businesses may have the same names, or a single business may operate under a variety of “doing business as” names. Ownership relationships are fluid.

Under the U.S. federalist system, the federal government has no role in business incorporation and so does not collect data on company identity or ownership. (An exception is the requirement, under federal law, that publicly traded companies make some information publicly available in order to be listed on the stock exchange.) States regulate the establishment and operation of companies according to their own laws; however, states also lack data on company ownership. In 2006, the director of the Government Accountability Office (“GAO”) testified before the Senate that in the process of incorporation minimal ownership information is collected.⁴ The GAO reported that “[m]ost states do not require ownership information at the time a company is formed or on the annual and biennial reports most corporations and limited liability companies (LLC) must file.”

The lack of access to data on company ownership and relationships has implications for law enforcement. Federal law enforcement officials are increasingly concerned that criminals are concealing their identities through the use of shell companies. However, states resist collecting ownership information because of concerns about cost and fear of losing business to other states that can compete by offering business privacy. Because of the lack of information about the ownership and organization of companies, when a company is debarred from federal contracting because of misbehavior, the debarment does not extend to wholly-owned subsidiaries primarily because the government has no way to identify them.⁵

In 1978, the federal government turned to Dun & Bradstreet, a private company, for help in identifying companies. Dun & Bradstreet supplies nine digit unique identifiers for companies known as Data Universal Numbering System (“D-U-N-S” or “DUNS”) numbers. DUNS numbers have since become integral to government acquisition and payment systems. Since 1998, under the FAR, a business that wishes to contract with the government must first obtain a DUNS number from Dun & Bradstreet, as must grantees and other recipients of federal assistance.⁶ A different DUNS number is required for every business location or co-located subdivision. Other entities such as the European Union and Walmart also require contractors and suppliers to obtain DUNS numbers.

To obtain a DUNS number, the contractor must provide its legal business name and physical address to Dun & Bradstreet. Contractors may optionally enter information about their parent company, but this is not required. The FAR gives Dun & Bradstreet a government monopoly on the collection of this data.

Dun & Bradstreet has acquired data on 168 million companies around the world.⁷ It analyzes, bundles, and resells this data through a la carte reports or through institutional subscriptions – including back to the US government. Dun & Bradstreet has a sole source contract with the General Services Administration (GSA) to supply the federal government with DUNS numbers, parent data, business verification, and other monitoring and analytic services. The current contract awarded in 2010 for up to 8 years is worth \$154 million.⁸

Agencies that wish to make use of the data in ways not provided for in this contract must maintain separate contracts for Dun & Bradstreet services. Others have no access. This is why the Department of Defense in 2009 was unable to comply with a congressional request for the total value of DoD contracts with contractors that had defrauded the federal government in the previous decade.⁹ It’s also why, in 2014, the government and the public suddenly lost access to information about how stimulus money was spent when the relevant government board did not renew its subscription with Dun & Bradstreet.¹⁰

The government has been engaged in a decades-long process to collect, centralize, standardize, improve the quality of, and make public procurement data.¹¹ Senators Coburn, Obama, Carper and McCain sponsored The Federal Funding Accountability and Transparency Act of 2006 (“Transparency Act”). The act ordered the Office of Management and Budget (OMB) to establish a single searchable and freely available website that includes basic information on awards of federal contracts, grants, and loans. Shortly thereafter, the government established the website usaspending.gov, offering the public a user-friendly interface to search a database of government contracts, view summary statistics, or download raw data directly.

The Transparency Act also required that the information provided include the name and location of the entity receiving the award and “a unique identifier of the entity receiving the award and of the parent entity of the recipient, should the entity be owned by another entity.”¹² However, the only identifiers of recipients and parents are DUNS numbers, over which Dun & Bradstreet claims intellectual property rights. The OMB was obliged to use the DUNS number to comply with the requirement, which required a contract modification and further compensation for Dun

& Bradstreet.¹³ The contract restricts the use of the data by the government and the public, reflected on the landing page of the usaspending.gov website, which cautions that the data cannot be used or analyzed for commercial or marketing purposes. The page also prohibits “systematic access” or extraction of content from the website.¹⁴ Similarly, the Federal Procurement Data System – Next Generation website allows users to download data but cautions that “organizational linkage information is not provided in this archive in order to honor the Federal Government’s licensing agreement with Dun & Bradstreet.”¹⁵

Concerned about the rising costs of the Dun & Bradstreet contract, restrictions on government use of data, and implications for transparency, the GSA is currently considering alternatives to the DUNS number. Switching costs are prohibitive, however, not least because the contract with Dun & Bradstreet requires the deletion of all data provided by Dun & Bradstreet from government databases at the end of the contract. One alternative under consideration is to build a parallel capability in-house, maintaining the Dun & Bradstreet contract until deletion of data would not be a concern, but the widespread use of DUNS numbers by multiple government agencies and in multiple computer systems makes the construction of a hybrid system daunting.

The current system, however, does not satisfy the requirements of the Transparency Act. The parent linkage data supplied by Dun & Bradstreet is incomplete. At no time in the registration process are contractors required to enter parent data and many do not. Nor is there any requirement for parent companies to have a DUNS number if they are not federal contractors, awardees, or aid recipients. Moreover, the data quality is unknown.

Even if it did comply with the Transparency Act, it would not allow for the debarment of related companies or the identification of organizational conflict of interest. Both would require a view of the total organizational structure of the contractor. The legislative emphasis on reporting only the parent of a company shows that the government has yet to grapple with the true complexity of contractor organizational structures, which include both multilayered organizational structures and joint ventures, and which can span countries and continents.

Using the parent linkage data published on usaspending.gov, it is possible to reconstruct contractor organizational structures in part. A Java program written by the author extracts contractor networks from the flat file of usaspending.gov data for visualization in the social network analysis programs Netdraw or Pajek or analysis with utilities written in STATA.¹⁶ To the author’s knowledge, this is the first time such networks have been identified and visualized for study. An article on this work appeared in the *Defense Acquisition Research Journal* in 2009. (See http://www.dau.mil/pubscats/pubscats/AR%20Journal/arj64/Thomas_ARJ63.pdf.)

An analysis of the 2010 data from Usaspending.gov suggested that at least 10,000 contractor organizational structures link twenty or more locations or entities. However, the complexity is likely to be even greater. Companies that are not contractors, grantees, or aid recipients or parents of contractors, grantees, or aid recipients are not reflected in the data at all. This means that contractor organizational structures extracted from this data are partial and fragmented.

Moreover, ownership relationships between companies only tells part of the story. An analysis of conflict of interest would also require knowledge of subcontracting relationships—which can be

tiered ten levels deep—and teaming agreements. Beginning in December 2010, usaspending.gov began to offer data on first tier subcontractors. However, the data does not contain information about the organizational structure of the subcontractors. Nor does it contain information about prime awardees or lower tier subcontractors, making it difficult to link subcontractors to their primes as would be needed to monitor organizational conflicts of interest. Disclosing the identity of first tier subcontractors is an important first step, but more is required.

True transparency would also require data on shared principals, as companies may be linked not only by relationships with other companies but also by relationships with individuals. It is individuals who are the ultimate owners of companies and their assets and who direct their activities. Effective debarment would prevent a principal from abandoning a debarred company and creating a new company to pursue contracts. However, this in turn would require the creation of unique identifiers for people. The U.S. has historically resisted the creation of unique identifiers for people because of desires for privacy, fears of excessive government power, and religious objections.¹⁷ Where government has come to rely heavily on private actors to provide government services, however, there is a tension between government transparency and accountability and personal privacy that has not yet been acknowledged.

¹ This discussion draws both on Thomas, M.A. 2011. “Identity and Ownership in Government Contracting.” http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1849964, and on US Government Accountability Office. 2012. “Government Is Analyzing Alternatives for Contractor Identification Numbers.” GAO-12-715R.

² See *Aetna Gov’t Health Plans, Inc.* B-254397, 1995 WL 449806 (Comp. Gen. July 27, 1995).

³ FAR Section 9.504. See also 49 CFR 252.209–7008, “Notice of Prohibition Relating to Organizational Conflict of Interest—Major Defense Acquisition Program.”

⁴ Government Accountability Office. 2006. “Company Formations: Minimal Ownership is Collected and Available.” GAO-07-196T (Nov. 14, 2006).

⁵ 68 Federal Register (228) 66538 (Nov. 26, 2003).

⁶ GAO, “Government Is Analyzing Alternatives.”

⁷ Dun & Bradstreet. “Information Quality.” <http://www.dnb.com/about-dnb/information-quality/14881801-1.html> (accessed 4/4/11).

⁸ GAO, “Government Is Analyzing Alternatives.” p. 7.

⁹ GAO, “Government Is Analyzing Alternatives.”

¹⁰ Christian Davenport, “Data on \$800 billion in stimulus spending will disappear this year. Here is why.” *The Washington Post* (Sept. 9, 2014), https://www.washingtonpost.com/business/economy/data-on-800-billion-in-stimulus-spending-will-disappear-this-year-here-is-why/2014/09/09/ad277ff4-350a-11e4-8f02-03c644b2d7d0_story.html.

¹¹ See Chapter 7 of “Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress,” (Jan. 2007). https://www.acquisition.gov/comp/aap/24102_GSA.pdf (accessed May 11, 2011).

¹² Federal Funding Accountability and Transparency Act of 2006, 109th Congress, 2nd Session, S. 2590. Sec. 2(b)(I).

¹³ GAO, “Government Is Analyzing Alternatives.” pp. 5-6.

¹⁴ [Usaspending.gov](http://www.Usaspending.gov/disclaimer), <http://www.Usaspending.gov/disclaimer>.

¹⁵ See <https://www/fpds.gov/fpdsng/cms/index.php/en/archives-9.html>.

¹⁶ See www.usgcontractors.info for the program and documentation.

¹⁷ See Electronic Privacy Information Center. 2011. “National ID and the REAL ID Act.”
http://epic.org/privacy/id_cards/ (accessed 4/20/11).