

the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

### Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Turn Inc. ("Turn").

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission again will review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves Turn, a digital advertising company that enables commercial brands and ad agencies to engage in targeted advertising, which is the practice of tracking a consumer's activities or characteristics to deliver ads tailored to the consumer's interests. The FTC complaint alleges that Turn violated Section 5(a) of the FTC Act by falsely representing to consumers the extent to which consumers could restrict the company's tracking of their online activities and the extent to which Turn's opt-out applied to mobile app advertising.

Specifically, the complaint alleges that until at least April 2015, Turn's privacy policy misrepresented that consumers could prevent Turn's tracking by blocking or otherwise limiting cookies. Contrary to representations that consumers could opt out of tracking by instructing their browser to "stop accepting cookies," Turn tracked consumers by using and synchronizing the Verizon X-UIDH header, a unique identifier appended to the internet traffic of more than 100 million consumers on the Verizon Wireless data network. Even if a consumer deleted cookies or reset their device advertising identifier (e.g., Apple's IDFA or Google's advertising ID), Turn would be able to recognize the user by cross-referencing the unique X-UIDH header associated with an individual consumer's device. In fact, if a Verizon Wireless user deleted their cookies, Turn would attempt to set a new cookie containing the same unique identifier as the cookie the user had deleted, thereby maintaining the linkage between the consumer's browser or device and an identifier associated with behavioral, demographic, or tracking data.

In addition, the complaint alleges that Turn's privacy policy misrepresented that its opt-out mechanism would be

effective in blocking targeted advertising on both mobile Web sites and in mobile apps. Contrary to Turn's representations, Turn's opt-out applied only to mobile browsers, and was not effective in blocking ads in mobile applications.

The proposed consent order contains provisions designed to prevent Turn from engaging in similar acts and practices in the future. Part I of the proposed order prohibits Turn from misrepresenting (1) the extent to which it collects, uses, discloses, retains, or shares Covered Information; and (2) the extent to which users may limit, control, or prevent Turn's collection, use, disclosure, retention, or sharing of covered information. Part II of the proposed order requires Turn, within thirty days following service of the order, to place a clear and conspicuous hyperlink on the Turn Web site homepage that states "Consumer Opt Out of Targeted Advertising." The hyperlink must take consumers to a clear and conspicuous disclosure that explains what information Turn collects and uses for targeted advertising, and provides an effective opt-out mechanism that allows consumers to prevent Turn from collecting or using consumers' information. In addition, Turn's Web site must describe to consumers the technologies and methods it uses for targeted advertising. Part III of the proposed order requires Turn to honor mobile operating system control signal (e.g., Apple's IDFA or Google's advertising ID) to opt out of or otherwise control or limit targeted advertising, where it knows or reasonably should know that it is receiving such a signal.

Parts IV through VIII of the proposed order are reporting and compliance provisions. Part IV requires acknowledgment of the order and dissemination of the order now and in the future to persons with managerial responsibilities relating to the subject matter of the order. Part V ensures notification to the FTC of changes in corporate status and mandates that Turn submit an initial compliance report to the FTC. Part VI requires Turn to retain documents relating to its compliance with the order for a five-year period. Part VII mandates that Turn make available to the FTC information or subsequent compliance reports, as requested. Part VIII is a provision "sunsetting" the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed complaint order or to

modify in any way the proposed orders terms.

By direction of the Commission.

**Donald S. Clark,**  
*Secretary.*

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0196; Docket No. 2016-0053; Sequence 33]

### Submission for OMB Review; Payment of Subcontractors

**AGENCY:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Payment of Subcontractors.

**DATES:** Submit comments on or before January 26, 2017.

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for OMB control number 9000-0196, Payment of Subcontractors. Select the link "Submit a Comment" that corresponds with "9000-0196; Payment of Subcontractors." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "9000-0196; Payment of Subcontractors" on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW.,

Washington, DC 20405. ATTN: Ms. Flowers/IC 9000-0196.

*Instructions:* Please submit comments only and cite IC 9000-0196, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov), approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202-501-1448, or email [curtis.glover@gsa.gov](mailto:curtis.glover@gsa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

Section 1334 of the Small Business Jobs and Credit Act of 2010 (Pub. L. 111-240) and the Small Business Administration's Final Rule at 78 FR 42391, Small Business Subcontracting, published on July 16, 2013, and effective August 15, 2013, requires the prime contractor to self-report to the contracting officer when the prime contractor makes late or reduced payments to small business subcontractors. In addition, the contracting officer is required to record the identity of contractors with a history of late or reduced payments to small business subcontractors in the Federal Awardee Performance and Integrity Information System (FAPIS). FAR Part 42 is revised to include in the past performance evaluation reduced or untimely payments reported to the contracting officer by the prime contractor in accordance with the clause at 52.242-XX, Payments to Small Business Subcontractors, that are determined by the contracting officer to be unjustified.

A notice was published in the **Federal Register** at 81 FR 3087, on January 20, 2016, as part of a proposed rule under FAR Case 2014-004. Two comments were received on the information collection.

**B. Discussion and Analysis**

*Comment:* Two respondents stated that the Councils had underestimated the public burden in regards to the proposed rule. One respondent commented that the FAR Council has greatly underestimated the implementation burden on commercial item and COTS item contractors, especially considering the broad definition of "subcontractor" that

applies to the proposed rule. The other respondent believed that the estimate of reporting time of only two hours per respondent is grossly underestimated. This negligible amount of time assumes that all contractors can easily identify from their payment systems which subcontractors are small businesses. The respondent believed that this is often not the case, and that the small business size status of a subcontractor may be unknown to the contractor's other accounting systems. The other respondent commented that since the Small Business Jobs Act of 2010 does not specifically require that the subcontractor payment clause apply to commercial contracts, the respondent recommended that the FAR Council seek additional information about the burden on contractors before a determination is made to apply the payment of subcontractor requirements to commercial item acquisitions. The respondent did not find that the availability of limited information indicated that the burden may not be significant, as described in the proposed rule. Rather, initial feedback from contractors suggested that the burdens associated with reporting under the rule will have a significant impact.

*Response:* The respondents do not offer data with which to support changing the current estimated public burden hours. However, since this is a new rule without an empirical frame of reference, the public reporting burden is reviewed every three years and can be adjusted as necessary.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**C. Annual Reporting Burden**

*Respondents:* 5,457.

*Responses per Respondent:* 1.

*Total Annual Responses:* 5,457.

*Hours per Response:* 2.

*Total Burden Hours:* 10,914.

*Obtaining Copies of Proposals:*

Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB),

1800 F Street NW., Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control Number 9000-0196, Payment of Subcontractors, in all correspondence.

Dated: November 15, 2016.

**Lorin S. Curit,**

*Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

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**BILLING CODE 6820-EP-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

**Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review**

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to Funding Opportunity Announcement (FOA) GH17-001, Evaluations to Improve Prevention Interventions Under the President's Emergency Plan for AIDS Relief (PEPFAR).

*Time and Date:* 9:00 a.m.-2:00 p.m., EST, January 25, 2017 (Closed).

*Place:* Teleconference.

*Status:* The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92-463.

*Matters for Discussion:* The meeting will include the initial review, discussion, and evaluation of applications received in response to FOA GH17-001, Evaluations to Improve Prevention Interventions Under the President's Emergency Plan for AIDS Relief (PEPFAR).

*Contact Person for More Information:* Hylan Shoob, Scientific Review Officer, Center for Global Health (CGH) Science Office, CGH, CDC, 1600 Clifton Road, NE., Mailstop D-69, Atlanta, Georgia 30329, Telephone: (404) 639-4796.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and