

END TRAFFICKING IN GOVERNMENT CONTRACTING ACT OF 2012

Despite a “zero tolerance” policy, human trafficking by federal government contractors and subcontractors operating overseas remains a serious problem. The bipartisan [Commission on Wartime Contracting](#), which conducted a comprehensive inquiry into the performance of contracts in support of military operations, recently concluded that “[e]xisting prohibitions on such trafficking have failed to suppress it.” The End Trafficking in Government Contracting Act responds by requiring contractors to implement trafficking prevention programs, and by strengthening oversight and investigation of trafficking reports to eliminate trafficking on federal grants and contracts.

[More than 70,000](#) third country nationals, recruited from countries like Bangladesh, Fiji, and the Philippines, work for contractors and subcontractors of the U.S. military in Iraq and Afghanistan. The Defense Department, State Department, and USAID also rely heavily on third country nationals worldwide. Lured by the promise of lucrative jobs, these workers find themselves the unwitting victims of illegal and fraudulent employment practices. These individuals often find their passports confiscated, and many face conditions akin to modern indentured servitude, with minimal wages and heavy debts owed to labor brokers. Many more suffer harassment and [repeated sexual abuse](#).

In 2011, the Commission on Wartime Contracting found evidence of human trafficking “[a]t many times during its travels and hearings.” The Commission [noted](#) that “[l]abor brokers or subcontractors have an incentive to lure third-country nationals into coming to work for United States contractors, only to be mistreated or exploited.”

Trafficking by contractors is a threat to the security and welfare of deployed service members. The presence of unauthorized personnel in restricted military areas poses serious risks to deployed personnel. The Commission on Wartime Contracting noted that on one Afghanistan visit, a Kandahar Air Field commander [informed](#) them that ““a couple thousand”” unauthorized third-country nationals were on base.” DOD’s Inspector General [recently recommended](#) that “existing contingency plans and operational planning guidance include combatting trafficking in persons considerations.”

Current federal efforts are insufficient to combat this problem. A [2011 report](#) from DOD’s Inspector General showed that less than half of CENTCOM construction and service contracts over \$5 million contained required clauses for combatting human trafficking. Agencies have yet to suspend or debar *any* prime contractor as a result of trafficking. Furthermore, the Commission on Wartime Contracting [concluded](#) that “[s]ome prime contractors, although not themselves knowingly violating the prohibitions on trafficking, have not proactively used all their capacities to supervise their labor brokers or subcontractors.” Effective oversight of agency efforts is also limited. The State Department’s Inspector General has [stated](#) that “since [federal contracting regulations] do[] not specify how to monitor contractors for TIP [trafficking in persons], OIG could not conclude that TIP monitoring is effective,” and the DOD’s Inspector General [observed](#) that “contractor-initiated reporting ... was the only means by which [DOD] could obtain timely and relevant information regarding actual or alleged TIP violations.”

The End Trafficking in Government Contracting Act addresses this problem by enhancing prevention, accountability, and enforcement with regard to these trafficking abuses:

- **Prevention.** The proposal prevents trafficking abuses by requiring contractors with contracts of over \$1 million to implement compliance plans to prevent trafficking, including: destroying or confiscating passports; misrepresenting wages or work location; using labor brokers who charge exorbitant recruiting fees; and activities that support the procurement of commercial sex acts.
- **Accountability.** The bill improves accountability by requiring that a contractor notify the Inspector General if he or she receives “credible evidence” that a subcontractor has engaged in prohibited conduct; requiring the Inspector General to investigate such instances; and requiring the Inspector General to investigate such instances and consider swift remedial action against the contractor.
- **Enforcement.** The bill improves enforcement of anti-trafficking requirements by—
 - Expanding the criminal prohibitions that prevent fraudulent labor practices typically associated with human trafficking of third country nationals to include employees on overseas contracts.
 - Codifying the range of remedial actions available for violations of anti-trafficking requirements, including the removal of an employee or the suspension or debarment of the contractor.