

# *International Stability Operations Association – White Paper*

## **Combatting Trafficking in Persons (CTIP): A Conundrum for Contractors**

### *Executive Summary*

*March 9, 2018*

1. Trafficking in persons refers to the subjection of men, women or children, to exploitative conditions for financial gain. The United States is not immune to this scourge. Employees who support U.S. overseas contingency operations (OCOs) are victims of human trafficking and contractors are in the unenviable position of being viewed as part of the problem.
2. Many large government contracting companies, primary contractors (primes), find themselves in a Catch-22 situation – they are deeply committed to combatting human trafficking, yet they find themselves not able to compete for overseas contracts unless they sub-contract much of the work out to non-U.S. smaller sub-prime contractors with little transparency or oversight.
3. This White Paper argues that the current CTIP regulations may be putting ethical contractors at a disadvantage and therefore undermining the essence of the United States CTIP policy.
4. Although the U.S. Government has adopted a “zero-tolerance” policy against trafficking, such policies hold little weight as most offenses go unpunished. Though primes are the responsible parties, much of their OCO labor is subcontracted and the subs, mostly non-U.S. owned and run, face little opposition from their home governments.
5. Workers have had their passports confiscated, being told they owe most of their pay to their employer or were simply left on base to fend for themselves once their contract ended, with no way to get home and no authorization for housing or food.
6. CTIP law and policy is, of course, an essentially humanitarian issue, but this emphasis toward essential change has not been effective. CTIP though can be looked at anew through the broader and more robust national security lens. The wars in Iraq and Afghanistan have highlighted the symbiosis between terrorism and trafficking.
7. Trafficking pays. It is well accepted that the trafficking of drugs and weapons funds Islamic terrorists and their global violence. Unlike drugs or guns, however, persons can be lucratively sold, used, reused and resold.
8. The power to take on trafficking would come not only from countering trafficking legislation, but from countering terrorism legislation, specifically 18 U.S.C. Code, “Providing Material Support or Resources to Designated Foreign Terrorist Organizations.”

9. In a Lowest Price Technically Acceptable (LPTA) environment, some primes have claimed they are in a no-win situation. In the words of one prime contractor “honest ethical individuals are at a disadvantage because there is no enforcement. Good actors are losing to bad actors in an LPTA environment.”
10. Large DoD contractors have been fined and subjected to certain administrative actions, but to date there had been no criminal prosecutions. Nor was the U.S. government even ready to “name and shame” companies regarding a lack of CTIP compliance.
11. Executive Order, “Strengthening Protections Against Trafficking in Persons in Federal Contracts,” requires contractors and subcontractors to “certify” that, “to the best of [their] knowledge and belief,” they do not engage in human trafficking. There is no guidance, however, as to the diligence this standard requires.
12. Without guidelines, and mechanisms for incorporating this labor-intensive expense, companies committed to CTIP will be unable to conduct relevant vetting of their supply chains. Companies will more likely employ only ephemeral, much less effective, measures to cut costs, putting ethical contractors at a disadvantage in the bidding process, and creating additional risk to the mission.

**Recommendations:**

1. Add anti-Trafficking legislation to existing law, specifically 18 U.S.C. Code, “Providing Material Support or Resources to Designated Foreign Terrorist Organizations.”
2. Amend the Federal Acquisition Regulation (FAR) contain language whereby the United States government supports contractors with robust CTIP compliance plans.
3. Add language in RFPs to specifically require CTIP documented compliance.
4. Add to DFARS, prime and sub-contractors should develop anti-trafficking compliance plans.
5. Primes develop internal spot-checking processes on their sub-contractors in theater.
6. Primes conduct exit interviews with random contractor employees.