

Calendar No. 384

117TH CONGRESS }
2d Session }

SENATE

{ REPORT
117-116 }

END HUMAN TRAFFICKING IN
GOVERNMENT CONTRACTS ACT OF 2022

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 3470

TO PROVIDE FOR THE IMPLEMENTATION OF CERTAIN
TRAFFICKING IN CONTRACTING PROVISIONS, AND FOR OTHER
PURPOSES



MAY 24, 2022.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

29-010

WASHINGTON : 2022

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MAY 24, 2022.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 3470]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 3470), to provide for the implementation of certain trafficking in contracting provisions, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 3470, the *End Human Trafficking in Government Contracts Act of 2022*, requires that if an agency receives an inspector general report substantiating an allegation that a contract recipient of that agency is engaged in a trafficking crime, that such matter be referred to the agency’s suspension and debarment official for action. The bill also requires the Director of the Office of Management and Budget (OMB) to submit to Congress a report on the implementation of the *Ending Trafficking in Government Contracting Act*, passed in the National Defense Authorization Act (NDAA) for Fiscal Year 2013.

II. BACKGROUND AND THE NEED FOR LEGISLATION

Human trafficking is a grave crime and a human rights abuse that harms the well-being of individuals and communities everywhere.¹ Human trafficking occurs when traffickers profit by compelling their victims to perform labor or to engage in commercial sex.²

The U.S. government has a zero tolerance policy for human trafficking among U.S. government employees and contractors.³ Despite this, the Government Accountability Office (GAO) has found that foreign workers employed under U.S. government contracts continue to be trafficked on a persistent basis.⁴ For example, over the past decade, there have been rising concerns about human trafficking by military contractors as the U.S. military outsources its overseas base-support responsibilities to contractors.⁵ Many of the individuals employed by the contractors come from developing countries, and income disparities between their countries of origin and countries of destination often make them vulnerable to labor abuses.⁶ Such abuse frequently begins with steep recruitment fees which put workers into debt, giving them no choice but to stay and work until their debt is paid off.⁷

Currently, if a U.S. government agency receives an inspector general report substantiating an allegation that a contract recipient engaged in a trafficking crime, that agency only needs to consider initiating a referral to the agency's suspension and debarment officials. S. 3470 requires said agency to refer matters to the agency's suspension and debarment official upon receipt of an inspector general report substantiating an allegation that a contractor or subcontractor engaged in human trafficking. The bill also requires the Director of OMB to submit a report to Congress regarding the implementation of title XVII of the FY 2013 NDAA, which enhanced prevention, accountability, and enforcement around trafficking crimes in government contracts.⁸

III. LEGISLATIVE HISTORY

Senator James Lankford (R-OK) introduced S. 3470, the *End Human Trafficking in Government Contracts Act of 2022*, on January 11, 2022, with Senator Joni Ernst (R-IA). The bill was referred to the Committee on Homeland Security and Governmental Affairs. The Committee considered S. 3470 at a business meeting on February 2, 2022. The bill was ordered reported favorably by a voice vote *en bloc*. Senators present for the vote on the bill were: Peters,

¹See U.S. Department of State, About Human Trafficking (www.state.gov/humantrafficking-about-human-trafficking) (accessed Jan. 10, 2022).

²*Id.*

³Government Accountability Office, *Human Trafficking: DOD Should Address Weaknesses in Oversight of Contractors and Reporting of Investigations Related to Contracts* (GAO-21-546) (Aug. 4, 2021).

⁴*Id.*

⁵*Id.*

⁶Government Accountability Office, *Human Trafficking: Oversight of Contractors' Use of Foreign Workers in High-Risk Environments Needs to be Strengthened*, (GAO-15-102) (Nov. 18, 2014).

⁷See United Nations Office on Drugs and Crime, *The Role of Recruitment Fees and Abusive and Fraudulent Recruitment Practices of Recruitment Agencies in Trafficking in Persons*, (2015) (www.unodc.org/documents/human-trafficking/2015/15-05035_ebook-_Recruitment_Fees_Agencies.pdf).

⁸National Defense Authorization Act of 2013, Pub. L. 112-239, Sec. 1701-1708 (2013).

Carper, Hassan, Sinema, Rosen, Padilla, Ossoff, Portman, Lankford, Scott, and Hawley.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section designates the name of the bill as the “End Human Trafficking in Government Contracts Act of 2022”.

Section 2. Implementation of trafficking in contracting provisions

Subsection (a) amends 22 U.S.C. §7104b(c)(1) by adding a requirement for agencies to refer matters to their suspension and debarment official if they receive an inspector general report substantiating an allegation that a contract recipient of the agency engaged in a trafficking crime. This subsection also strikes 22 U.S.C. §7104b(c)(1)(G), removing the option for agencies to refer matters to the agency suspension and debarment official if the agency receives an inspector general report substantiating an allegation that a contract recipient engaged in a trafficking crime.

Subsection (b) requires the Director of OMB to submit a report to Congress regarding the implementation of title XVII of the *Ending Trafficking in Government Contracting Act* enacted as part of the FY 2013 NDAA no later than 90 days after the enactment of this bill.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 16, 2022.

Hon. GARY PETERS,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3470, the End Human Trafficking in Government Contracts Act of 2022.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 3470, End Human Trafficking in Government Contracts Act of 2022			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on February 2, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2027	2022-2032
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

Under S. 3470, any federal agency receiving a substantiated claim that a grant or contract recipient is engaging in human trafficking would be required to refer the matter to the agency's suspension and debarment official. Under current law, such a referral is optional. The head of the contracting agency would have the authority to impose various sanctions, including terminating the contract. The bill also would require the Director of the Office of Management and Budget to report on efforts to end human trafficking in government contracting.

Federal agencies are subject to laws, orders, and directives that are aimed at preventing human trafficking; thus, CBO expects that the bill's provisions would not significantly increase federal agencies' administrative costs. CBO estimates that the cost of meeting the bill's reporting requirements would be less than \$500,000 over the 2022–2027 period.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * *

TITLE 22—FOREIGN RELATIONS AND INTERCOURSE

* * * * *

CHAPTER 78—TRAFFICKING VICTIMS PROTECTION

* * * * *

SEC. 7104b. MONITORING AND INVESTIGATION OF TRAFFICKING IN PERSONS.

(a) * * *

(b) * * *

(c) REMEDIAL ACTIONS.—

(1) IN GENERAL.—Upon receipt of an Inspector General’s report substantiating an allegation that the recipient of a contract, grant, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of a subgrantee or subcontractor, engaged in any of the activities described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 1702, or notification of an indictment, information, or criminal complaint for an offense under subsection (a)(3), the head of agency shall *refer the matter to the agency suspension and debarment official and consider taking one or more of the following remedial actions:*

(A) * * *

* * * * *

[(G) Referring the matter to the agency suspension and debarment official.]

(2) * * *

(3) * * *

(4) * * *

(d) * * *

* * * * *