

114TH CONGRESS
2D SESSION

H. R. 400

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2, 2016

Received; read twice and referred to the Committee on Foreign Relations

AN ACT

To require the Secretary of State and the Administrator of the United States Agency for International Development to submit reports on definitions of placement and recruitment fees for purposes of enabling compliance with the Trafficking Victims Protection Act of 2000, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This bill may be referred to as the “Trafficking Pre-
5 vention in Foreign Affairs Contracting Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Department of State and the United
9 States Agency for International Development
10 (USAID) rely on contractors to provide various serv-
11 ices in foreign countries such as construction, secu-
12 rity, and facilities maintenance.

13 (2) In certain cases, such as where the employ-
14 ment of local labor is impractical or poses security
15 risks, Department of State and USAID contractors
16 sometimes employ foreign workers who are citizens
17 neither of the United States nor of the host country
18 and are recruited from developing countries where
19 low wages and recruitment methods often make
20 them vulnerable to a variety of trafficking-related
21 abuses.

22 (3) A January 2011 report of the Office of the
23 Inspector General for the Department of State,
24 while it found no evidence of direct coercion by con-
25 tractors, found that a significant majority of their

1 foreign workers in certain Middle East countries re-
2 ported paying substantial fees to recruiters that, ac-
3 cording to the Inspector General, “effectively re-
4 sulted in debt bondage at their destinations”. Ap-
5 proximately one-half of the workers were charged re-
6 cruitment fees equaling more than six months’ sal-
7 ary. More than a quarter of the workers reported
8 fees greater than one year’s salary and, in some of
9 those cases, fees that could not be paid off in two
10 years, the standard length of a contract.

11 (4) A November 2014 report of the United
12 States Government Accountability Office (GAO–15–
13 102) found that the Department of State, USAID,
14 and the Defense Department need to strengthen
15 their oversight of contractors’ use of foreign workers
16 in high-risk environments in order to better protect
17 against trafficking in persons.

18 (5) The GAO report recommended that those
19 agencies should develop more precise definitions of
20 recruitment fees, and that they should better ensure
21 that contracting officials include prevention of traf-
22 ficking in persons in contract monitoring plans and
23 processes, especially in areas where the risk of traf-
24 ficking in persons is high.

1 (6) Of the 3 agencies addressed in the GAO re-
2 port, only the Department of Defense expressly con-
3 curred with GAO’s definitional recommendation and
4 committed to defining recruitment fees and to incor-
5 porating that definition in its acquisition regulations
6 as necessary.

7 (7) In formal comments to GAO, the Depart-
8 ment of State stated that it forbids the charging of
9 any recruitment fees by contractors, and both the
10 Department of State and USAID noted a proposed
11 Federal Acquisition Regulation (FAR) rule that pro-
12 hibits charging any recruitment fees to employees.

13 (8) However, according to GAO, neither the
14 Department of State nor USAID specifically defines
15 what constitutes a prohibited recruitment fee: “Con-
16 tracting officers and agency officials with monitoring
17 responsibilities currently rely on policy and guidance
18 regarding recruitment fees that are ambiguous.
19 Without an explicit definition of the components of
20 recruitment fees, prohibited fees may be renamed
21 and passed on to foreign workers, increasing the risk
22 of debt bondage and other conditions that contribute
23 to trafficking.”.

24 (9) GAO found that, although Department of
25 State and USAID guidance requires their respective

1 contracting officials to monitor compliance with traf-
2 ficking in persons requirements, they did not con-
3 sistently have specific processes in place to do so in
4 all of the contracts that GAO sampled.

5 **SEC. 3. REPORTS ON DEFINITION OF PLACEMENT AND RE-**
6 **CRUITMENT FEES AND ENHANCEMENT OF**
7 **CONTRACT MONITORING TO PREVENT TRAF-**
8 **FICKING IN PERSONS.**

9 (a) DEPARTMENT OF STATE REPORT.—Not later
10 than 180 days after the date of the enactment of this Act,
11 the Secretary of State shall submit to the appropriate
12 committees of Congress a report that includes the matters
13 described in subsection (c) with respect to the Department
14 of State.

15 (b) USAID REPORT.—Not later than 180 days after
16 the date of the enactment of this Act, the Administrator
17 of the United States Agency for International Develop-
18 ment (USAID) shall submit to the appropriate committees
19 of Congress a report that includes the matters described
20 in subsection (c) with respect to USAID.

21 (c) MATTERS TO BE INCLUDED.—The matters de-
22 scribed in this subsection are the following:

23 (1) A proposed definition of placement and re-
24 cruitment fees for purposes of complying with sec-
25 tion 106(g)(iv)(IV) of the Trafficking Victims Pro-

1 tection Act of 2000 (22 U.S.C. 7104(g)(iv)(IV)), in-
2 cluding a description of what fee components and
3 amounts are prohibited or are permissible for con-
4 tractors or their agents to charge workers under
5 such section.

6 (2) An explanation of how the definition de-
7 scribed in paragraph (1) will be incorporated into
8 grants, contracts, cooperative agreements, and con-
9 tracting practices, so as to apply to the actions of
10 grantees, subgrantees, contractors, subcontractors,
11 labor recruiters, brokers, or other agents, as speci-
12 fied in section 106(g) of the Trafficking Victims
13 Protection Act of 2000 (22 U.S.C. 7104(g)).

14 (3) A description of actions taken during the
15 180-day period preceding the date of submission of
16 the report and planned to be taken during the 1-
17 year period following the date of submission of the
18 report to better ensure that officials responsible for
19 grants, contracts, and cooperative agreements and
20 contracting practices include the prevention of traf-
21 ficking in persons in plans and processes to monitor
22 such grants, contracts, and cooperative agreements
23 and contracting practices.

24 (d) APPROPRIATE COMMITTEES OF CONGRESS.—In
25 this section, the term “appropriate committees of Con-

gress” means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 4. DEFINITION.

In this Act, the term “trafficking in persons” has the meaning given the term in section 103(9) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(9)).

Passed the House of Representatives February 1, 2016.

Attest:

KAREN L. HAAS,

Clerk.