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Written Comments to Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) Referencing "Public Comments on Protections Against TIP"

The Alliance to End Slavery and Trafficking (ATEST), a national coalition of anti-human trafficking groups, and the undersigned organizations are pleased to submit comments in response to the February 12, 2013 Notice of a public meeting and request for comments pursuant to Executive Order (E.O.) 13627, Strengthening Protections Against Trafficking In Persons In Federal Contracts, and Title XVII of the National Defense Authorization Act, Public Law 112-239, the End Trafficking in Government Contracting Act (ETGCA).

ATEST acts with a shared agenda to end forced labor and human trafficking around the world. Member organizations individually reflect a range of perspectives within the anti-human trafficking community both on labor and sexual exploitation, in the United States and around the world. It is this diversity in perspective and expertise that makes the alliance unique and allows members to put forth and advocate for comprehensive solutions that address the needs of the individuals affected by this crime.

It is in this capacity that ATEST

complicit in, human trafficking in their supply chain, and establishing training requirements for the federal acquisition community. As a result, the FAR Council has the opportunity to set an international standard that could affect government procurement around the world, as well as setting a standard for business entities on a global scale. Following the U.S. lead, for example, the Government of Australia has also promulgated an order on preventing trafficking in its procurement.¹

No Recruitment Fees

E.O. 13627 expressly prohibits federal contractors and their employees, in addition to subcontractors and their employees, from charging workers recruitment fees. The ETGCA included provisions that permitted "reasonable" recruitment fees, while deferring to the Executive Branch to define the parameters of "reasonableness." However, the President has already concluded through the mechanism of the E.O. that any recruitment fee(s) is per se unreasonable. We echo this consideration and recommend that the FAR Council establish this most restrictive standard by prohibiting contractors, subcontractors, and their employees from charging any recruitment fees to workers.

The definition of reasonableness is amorphous and is unduly burdensome on private industry to enforce. The most efficient, cost-effective method to eliminate this burden is by applying an enforceable standard, namely that a recruitment fee is per se unreasonable. In addition, oversight of the administration of any recruitment fee is difficult to investigate because fees are often paid in cash, and thus undocumented, because workers who pay the recruitment fees are expressly told by their recruiters or employers to lie about the fee amount or otherwise face unemployment, and because recruiters charge multiple recruitment fees at several points in the process. All of these factors reinforce the vulnerability of the recruited worker and are directly linked to debt bondage situations and human trafficking.

Thus, the cost of assessing, investigating, and enforcing a "reasonable" recruitment fee is high and near impossible to police. Recruitment fees, including application fees, recruitment costs, labor certifications, employer attorneys' fees, monetary payments, wage concessions, kickbacks, bribes, tributes, in-kind payments, and free labor, are per se unreasonable.

Additionally, the ILO Convention 181 (Private Employment Agencies Convention, 1997) supports a "no fees" position by stating, "[p]rivate employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers." Similar to any standard developed by the International Labour Organization (ILO), this is an international standard that was agreed upon by the international employer/business community, as well as governments and unions, through the ILO's tripartite process.

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Independent Verification

Any compliance program and standards of recruitment implemented in response to FAR Council regulations on E.O. 13627 should incorporate a third

The ethical framework for cross-border labor recruitment, a joint standard	

exploiting the workers' labor and potentially leading to a labor trafficking situation. Over the course of employment, wages paid to the workers should reflect the wages that the employer promised to the worker. One approach to addressing this issue is to develop wage transparency mechanisms that can guarantee that workers are paid the income they are promised, while simultaneously promoting a free market. For instance, a

Defining Subcontractors

Federal contractors and subcontractors looking to avoid the implementation of the E.O. 13627 and ETGCA may construct a contract that limits the liability of subcontractors. We suggest, however, that FAR Council regulations to implement E.O. 13627 should reach contractors, subcontractors, and independent contractors alike Sm BT 0 0[(s)w0120(b0e54r0)t0m120(ar(s))00.2F1s0d1inTf5de(i)100ht51ct0. Tm.2r(de)t021/y be)bi51it0/,Tm0.2 (t) 0.20.2 (t) the FAR Council should refine its definition of subcontractor to include any individual providing any such service along the supply chain in the course of executing a federal contract. Functionally, this system is simple to enforce because if a person is part of the s,g olie

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ECPAT-USA

Free the Slaves

International Justice Mission

Not For Sale

Polaris Project

Safe Horizon

Solidarity Center

Verité

Vital Voices Global Partnership

World Vision

Additional Organizations:

American Civil Liberties Union (ACLU)

ATEST is a diverse alliance of U.S.-based human rights organizations, acting with a shared agenda to end all forms of modern-day slavery and human trafficking domestically and globally. ATEST member organizations include: Coalition to Abolish Slavery and Trafficking (CAST), Coalition of Immokalee Workers (CIW), ECPAT-USA, Free the Slaves, International Justice Mission, Not For Sale, Polaris Project, Safe Horizon, Solidarity Center, Verité, Vital Voices Global Partnership, and World Vision.

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