

AMENDMENT TO H.R. 4310, AS REPORTED
OFFERED BY MR. LANKFORD OF OKLAHOMA
[For himself and Mr. Connolly of Virginia]

At the end of division A, add the following new title:

1 **TITLE XVII—END TRAFFICKING**
2 **IN GOVERNMENT CONTRACTING**

3 **SEC. 1701. SHORT TITLE.**

4 This title may be cited as the “End Trafficking in
5 Government Contracting Act of 2012”.

6 **SEC. 1702. DEFINITIONS.**

7 In this title:

8 (1) EXECUTIVE AGENCY.—The term “executive
9 agency” has the meaning given the term in section
10 133 of title 41, United States Code.

11 (2) SUBCONTRACTOR.—The term “subcon-
12 tractor” means a recipient of a contract at any tier
13 under a grant, contract, or cooperative agreement.

14 (3) SUBGRANTEE.—The term “subgrantee”
15 means a recipient of a grant at any tier under a
16 grant or cooperative agreement.

17 (4) UNITED STATES.—The term “United
18 States” has the meaning provided in section 103(12)

1 of the Trafficking Victims Protection Act of 2000
2 (22 U.S.C. 7102(12)).

3 **SEC. 1703. CONTRACTING REQUIREMENTS.**

4 Section 106(g) of the Trafficking Victims Protection
5 Act of 2000 (22 U.S.C. 7104(g)) is amended by striking
6 “if the grantee or any subgrantee,” and all that follows
7 through the period at the end and inserting the following:
8 “or take any of the other remedial actions authorized
9 under section 1705(e) of the End Trafficking in Govern-
10 ment Contracting Act of 2012, if the grantee or any sub-
11 grantee, or the contractor or any subcontractor, engages
12 in, or uses labor recruiters, brokers, or other agents who
13 engage in, (i) severe forms of trafficking in persons, (ii)
14 the procurement of a commercial sex act during the period
15 of time that the grant, contract, or cooperative agreement
16 is in effect, (iii) the use of forced labor in the performance
17 of the grant, contract, or cooperative agreement, or (iv)
18 acts that directly support or advance trafficking in per-
19 sons, including the following acts:

20 “(1) Destroying, concealing, removing, or con-
21 fiscating an employee’s immigration documents with-
22 out the employee’s consent.

23 “(2) Failing to repatriate an employee upon the
24 end of employment, unless—

1 “(A) exempted from the duty to repatriate
2 the employee by the Federal department or
3 agency providing or entering into the grant,
4 contract, or cooperative agreement; or

5 “(B) the employee is a victim of human
6 trafficking seeking victim services or legal re-
7 dress in the country of employment or a witness
8 in a human trafficking enforcement action.

9 “(3) Soliciting a person for the purpose of em-
10 ployment, or offering employment, by means of ma-
11 terially false or fraudulent pretenses, representa-
12 tions, or promises regarding that employment.

13 “(4) Charging recruited employees exorbitant
14 placement fees, such as fees equal to or greater than
15 the employee’s monthly salary, or recruitment fees
16 that violate the laws of the country from which an
17 employee is recruited.

18 “(5) Providing inhumane living conditions.”.

19 **SEC. 1704. COMPLIANCE PLAN AND CERTIFICATION RE-**
20 **QUIREMENT.**

21 (a) **REQUIREMENT.**—The head of an executive agen-
22 cy may not provide or enter into a grant, contract, or coop-
23 erative agreement valued at \$1,000,000 or more if per-
24 formance will substantially be conducted overseas, unless
25 a duly designated representative of the recipient of such

1 grant, contract, or cooperative agreement certifies to the
2 contracting or grant officer prior to receiving an award
3 and on an annual basis thereafter, after having conducted
4 due diligence, that—

5 (1) the recipient has implemented a plan to pre-
6 vent the activities described in section 106(g) of the
7 Trafficking Victims Protection Act of 2000 (22
8 U.S.C. 7104(g)), as amended by section 1703, and
9 is in compliance with that plan;

10 (2) the recipient has implemented procedures to
11 prevent any activities described in such section
12 106(g) and to monitor, detect, and terminate any
13 subcontractor, subgrantee, or employee of the recipi-
14 ent engaging in any activities described in such sec-
15 tion; and

16 (3) to the best of the representative's knowl-
17 edge, neither the recipient, nor any subcontractor or
18 subgrantee of the recipient or any agent of the re-
19 cipient or of such a subcontractor or subgrantee, is
20 engaged in any of the activities described in such
21 section.

22 (b) LIMITATION.—Any plan or procedures imple-
23 mented pursuant to subsection (a) shall be appropriate to
24 the size and complexity of the grant, contract, or coopera-
25 tive agreement and to the nature and scope of its activi-

1 ties, including the number of non-United States citizens
2 expected to be employed.

3 (c) DISCLOSURE.—The recipient shall provide a copy
4 of the plan to the contracting or grant officer upon re-
5 quest, and, as appropriate, shall post the useful and rel-
6 evant contents of the plan or related materials on its
7 website and at the workplace.

8 (d) PERFORMANCE PREDOMINATELY OVERSEAS.—
9 For purposes of subsection (a), a grant, contract, or coop-
10 erative agreement shall be considered to be performed pre-
11 dominantly overseas if the estimated value of the services
12 required to be performed under the grant, contract, or co-
13 operative agreement outside the United States exceeds
14 \$500,000.

15 **SEC. 1705. MONITORING AND INVESTIGATION OF TRAF-**
16 **FICKING IN PERSONS.**

17 (a) INVESTIGATION.—If the contracting or grant offi-
18 cer of an executive agency for a grant, contract, or cooper-
19 ative agreement receives credible evidence that a recipient
20 of the grant, contract, or cooperative agreement; any sub-
21 grantee or subcontractor of the recipient; or any agent of
22 the recipient or of such a subgrantee or subcontractor, has
23 engaged in an activity described in section 106(g) of the
24 Trafficking Victims Protection Act of 2000 (22 U.S.C.
25 7104(g)), as amended by section 1703, including a report

1 from a contracting officer representative, an inspector
2 general, an auditor, an alleged victim or victim's rep-
3 resentative, or any other credible source, the contracting
4 or grant officer shall, before exercising any option to
5 renew such grant, contract, or cooperative agreement, re-
6 quest that the agency's Office of Inspector General imme-
7 diately initiate an investigation of the allegation or allega-
8 tions contained in the report. If the agency's Office of In-
9 spector General is unable to conduct a timely investiga-
10 tion, the suspension and debarment office or another in-
11 vestigative unit of the agency shall conduct the investiga-
12 tion.

13 (b) REPORT.—Upon completion of an investigation
14 under subsection (a), the office or unit that conducted the
15 investigation shall submit to the contracting or grant offi-
16 cer and, if such investigation was not conducted by the
17 agency's Office of Inspector General, to the agency's Of-
18 fice of Inspector General, a report on the investigation,
19 including conclusions about whether credible evidence ex-
20 ists that the recipient of a grant, contract, or cooperative
21 agreement; any subcontractor or subgrantee of the recipi-
22 ent; or any agent of the recipient or of such a subcon-
23 tractor or subgrantee, engaged in any of the activities de-
24 scribed in section 106(g) of the Trafficking Victims Pro-

1 section Act of 2000 (22 U.S.C. 7104(g)), as amended by
2 section 1703.

3 (c) REMEDIAL ACTIONS.—

4 (1) IN GENERAL.—If a contracting or grant of-
5 ficial determines that a recipient of a grant, con-
6 tract, or cooperative agreement, or any subcon-
7 tractor or subgrantee of the recipient, has engaged
8 in any of the activities described in such section
9 106(g), the contracting or grant officer shall con-
10 sider taking one or more of the following remedial
11 actions:

12 (A) Requiring the recipient to remove an
13 employee from the performance of work under
14 the grant, contract, or cooperative agreement.

15 (B) Requiring the recipient to terminate a
16 subcontract or subgrant.

17 (C) Suspending payments under the grant,
18 contract, or cooperative agreement.

19 (D) Withholding award fees, consistent
20 with the award fee plan, for the performance
21 period in which the agency determined the con-
22 tractor or subcontractor engaged in any of the
23 activities described in such section 106(g).

24 (E) Declining to exercise available options
25 under the contract.

1 (F) Terminating the contract for default
2 or cause, in accordance with the termination
3 clause for the contract.

4 (G) Referring the matter to the agency
5 suspension and debarment official.

6 (H) Referring the matter to the Depart-
7 ment of Justice for prosecution under any ap-
8 plicable law.

9 (2) SAVINGS CLAUSE.—Nothing in this sub-
10 section shall be construed as limiting the scope of
11 applicable remedies available to the Federal Govern-
12 ment.

13 (3) MITIGATING FACTOR.—Where applicable,
14 the contracting or grant official may consider wheth-
15 er the contractor or grantee had a plan in place
16 under section 1704, and was in compliance with that
17 plan at the time of the violation, as a mitigating fac-
18 tor in determining which remedies, if any, should
19 apply.

20 (d) INCLUSION OF REPORT CONCLUSIONS IN
21 FAPIIS.—The contracting or grant officer shall ensure
22 that relevant findings contained in the report under sub-
23 section (b) are included in the Federal Awardee Perform-
24 ance and Integrity Information System (FAPIIS). These
25 findings shall be considered relevant past performance

1 data for the purpose of awarding future contracts, grants,
2 or cooperative agreements.

3 **SEC. 1706. NOTIFICATION TO INSPECTORS GENERAL AND**
4 **COOPERATION WITH GOVERNMENT.**

5 The head of an executive agency making or awarding
6 a grant, contract, or cooperative agreement shall require
7 that the recipient of the grant, contract, or cooperative
8 agreement—

9 (1) immediately inform the Inspector General of
10 the executive agency of any information it receives
11 from any source that alleges credible evidence that
12 the recipient; any subcontractor or subgrantee of the
13 recipient; or any agent of the recipient or of such a
14 subcontractor or subgrantee, has engaged in conduct
15 described in section 106(g) of the Trafficking in Vic-
16 tims Protection Act of 2000 (22 U.S.C. 7104(g)), as
17 amended by section 1703; and

18 (2) fully cooperate with any Federal agencies
19 responsible for audits, investigations, or corrective
20 actions relating to trafficking in persons.

21 **SEC. 1707. EXPANSION OF FRAUD IN FOREIGN LABOR CON-**
22 **TRACTING TO INCLUDE WORK OUTSIDE THE**
23 **UNITED STATES.**

24 Section 1351 of title 18, United States Code, is
25 amended—

1 (1) BY STRIKING “WHOEVER KNOWINGLY” AND
2 INSERTING “(A) WORK INSIDE THE UNITED
3 STATES.—Whoever knowingly

4 (2) by adding at the end the following new sub-
5 section:

6 “(b) WORK OUTSIDE THE UNITED STATES.—Who-
7 ever knowingly and with intent to defraud recruits, solie-
8 its, or hires a person outside the United States or causes
9 another person to recruit, solicit, or hire a person outside
10 the United States, or attempts to do so, for purposes of
11 work performed on a United States Government contract
12 performed outside the United States, or on a United
13 States military installation or mission or other property
14 or premises owned or controlled by the United States Gov-
15 ernment, by means of materially false or fraudulent pre-
16 tenses, representations, or promises regarding that em-
17 ployment, shall be fined under this title or imprisoned for
18 not more than 5 years, or both.”.

19 **SEC. 1708. IMPROVING DEPARTMENT OF DEFENSE AC-**
20 **COUNTABILITY FOR REPORTING TRAF-**
21 **FICKING IN PERSONS CLAIMS AND VIOLA-**
22 **TIONS.**

23 Section 105(d)(7)(H) of the Trafficking Victims Pro-
24 tection Act of 2000 (22 U.S.C. 7103(d)(7)(H)) is amend-
25 ed—

1 (1) in clause (iii), by inserting “and” at the end
2 after the semicolon; and

3 (2) by adding at the end the following new
4 clause:

5 “(iv) all trafficking in persons activities of contrac-
6 tors reported to the Under Secretary of Defense for Acqui-
7 sition, Technology, and Logistics;”.

8 **SEC. 1709. RULE OF CONSTRUCTION.**

9 Excluding section 1707, nothing in this title shall be
10 construed to supersede, enlarge, or diminish the common
11 law or statutory liabilities of any grantee, subgrantee, con-
12 tractor, subcontractor, or other party covered by section
13 106(g) of the Trafficking Victims Protection Act of 2000
14 (22 U.S.C. 7104(g)), as amended by section 1703.

