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The Price of Slavery: An Analysis of Human Trafficking Policy and Spending in Department of Defense Procurement

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ACQUISITION RESEARCH PROGRAM
DEPARTMENT OF DEFENSE MANAGEMENT
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The Price of Slavery: An Analysis of Human Trafficking Policy and Spending in Department of Defense Procurement

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Abstract

The Department of Defense (DoD) is charged with upholding the U.S. zero tolerance human trafficking policy in a world of complex, opaque supply chains and constrained human and capital resources. This study explores how the DoD can better leverage its acquisition workforce, sourcing expertise, and data to rigorously uphold the U.S. policy of zero tolerance for human trafficking in such an environment. As part of this analysis a program evaluation of the DoD's Combating Trafficking in Persons training was conducted for the acquisition workforce. This evaluation categorized the training related to prevention, monitoring, and response to human trafficking. A quantitative analysis of DoD spending was conducted to illuminate the amount of tax dollars spent in categories, based on product and service codes, where trafficking is most prevalent to help the DoD focus its efforts for program improvement. The spend analysis revealed areas that are most at risk. Globally, an estimated 24.9 million people are subjected to human trafficking, which generates an estimated \$150 billion annually in illicit profits (White House, 2020, p. 8). Specifically, the DoD spent \$13.1 billion (2018–2020) in countries that are not making significant efforts to combat human trafficking according to the Department of State. The research provides insight and recommendations on where the DoD should focus attention to address human trafficking in contracts constrained of prevention, monitoring, and response resources. Finally, we provided recommended courses of action to increase participation and enhance the mandatory training for the acquisition workforce.

Introduction

Human trafficking is an atrocity that all three researchers wanted to do something about. As contracting officers, we wanted to explore whether or not the United States could be spending tax dollars in areas that directly or indirectly support human trafficking.. We utilized spend analysis to explore gaps or areas of higher risk to human trafficking in government acquisitions given the U.S. government's (USG) zero tolerance policy. Our research question became:

How can the DoD better leverage its acquisition workforce, sourcing expertise, and data to rigorously uphold U.S. policy of zero tolerance for human trafficking?

We were fortunate enough to be sponsored by the Department of Defense (DoD) Combatting Trafficking in Persons (CTIP) Program Management Office (PMO). The following paper will address the most critical areas of our research and the recommendations that were presented to the Department of State's (DoS) Senior Policy Operating Group (SPOG) in December 2021 and later to the Secretary of Defense Lloyd J. Austin III in January 2022. Our recommendations



were also addressed by Deputy Secretary of Defense Kathleen Hicks to the President's Interagency Task Force (PITF) in January 2022.

Overview

"The Department of Defense (DoD) defines human trafficking, also known as trafficking in persons (TIP), as an abhorrent crime that is human rights abuse found in the forms of sex trafficking, forced labor, and child soldiering" (DoD Combating Trafficking in Persons Program Management Office, 2021, p. 1). Moreover, human trafficking falls within modern slavery; it is a moral, ethical, and legal problem that erodes the American foundation of "life, liberty, and the pursuit of happiness" (U.S. Declaration of Independence, 1776, para. 2).

The USG is charged as stewards of the taxpayers' dollar and the public's interest. Meaning, the USG cannot just throw aside the bedrock of moral, ethical, and legal decency of individual freedoms. As one of the largest spending organizations in the United States, the DoD is tasked to combat human trafficking through policy, action, and fiscal responsibility to further protect these freedoms and rights. The DoD has various measures in place to combat human trafficking. We specifically delved into FAR clause 52.222-50, Combating Trafficking in Persons. We discovered through this exploration that the FAR clause allows ambiguity by having an arbitrary \$550,000 threshold and is limited to non-COTS service and commodities that are inside of the United States. These seemingly arbitrary policy triggers challenge the notion of a USG zero tolerance policy, and the USG does not appear to be maximizing its potential to prevent, monitor, and respond to human trafficking using contemporary data analytic methods. The study explores gaps in prevention, monitoring, and response (PMR) methods utilized by the DoD. We offer a first-of-its-kind use case of contemporary spend analytics and a nascent risk evaluation framework to better target areas of potential risk within DoD markets in an effort to align these methods with a true zero tolerance policy.

Prevention, Monitoring, and Response

We defined *prevention* in this research as methods employed to stop human trafficking from happening within federal acquisitions. We defined *monitoring* in this research as the ability to identify human trafficking within DoD acquisitions, through a standardized process. We defined *response* in this research as actions undertaken by those appropriately responsible when human trafficking is discovered or suspected within a DoD acquisition.

Preventative measures would be implemented in the pre-award/award stage, while monitoring and response measures would be implemented in the post-award/contractor performance stage. The research and recommendations aligned with strong prevention actions. Furthermore, strong prevention mechanisms could lead to less TIP and, therefore, lessen the burden of response.

Methodology

We used a mixed-method approach to conduct this research. We started the research with a quantitative spend analysis. We then conducted a qualitative program evaluation of the DoD's CTIP training for acquisitions and contracting. In 2019, the Office of Management and Budget (OMB) introduced a memorandum titled *Anti-Trafficking Risk Management Best Practices & Mitigation Considerations*, which urged federal agencies to conduct spend analyses in high-risk areas of human trafficking (Weichert, 2019). We used this memorandum as the motivation and conducted a spend analysis. We conducted scholarly literature and existing method research but were unable to find a USG or DoD TIP spend analysis framework.



We developed a spend analysis method given the limited researched area and lack of sufficient frameworks. Our spend analysis method quantified DoD spend, contracts, and contract actions in countries and specific goods or services that are tied to high-risk areas for human trafficking defined by the DoS Trafficking in Persons report. We used the Air Force Business Intelligence Tool (AFBIT) Lite application which is a product of the Air Force Installation Contracting Center Strategic Plans and Strategic Communications Division (AFICC/KA). AFBIT Lite is a visualization tool that gathers data from <https://www.USASpending.gov> and <https://SAM.gov> and displays it into targeted metrics used by the USAF contracting and category management communities. We identified our primary data elements and product service codes (PSC) using the General Services Administration (GSA) Fiscal Year (FY) 2020 PSC manual and the FSC PSC machine learning tool.

The qualitative portion of the research was a program evaluation of J3TA–US1328–C: CTIP DoD Acquisition Course. The program evaluation categorized the DoD Contracting and Acquisition CTIP computer-based training into the PMR elements that exist within contract management. The program evaluation further analyzed the acquisition CTIP training structure.

Results

We conducted a spend analysis for acquisitions during FY2019 and FY2020 in the markets for PPE, construction services, and food and food products based on the level of human trafficking tiers established by the DoS. We chose PPE, construction services, and food and food products because they were highlighted by various international agencies as having some of the highest levels of observed human trafficking. Table 1 illustrates the key insights from the spend analysis that we conducted.

Table 1. Synopsis of Spend Analysis Results

Results		
PPE	Construction	Food & Food Products
<p>The DoD spent \$6.66 billion for PPE in FY19 and FY20.</p> <p>PPE is considered a COTS item, meaning it is <i>not</i> covered under the criteria for having a CTIP compliance plan.</p> <p>The DoD spent \$5.26 million on PPE in Tier 3 countries.</p>	<p>The DoD spent \$42.42 billion for construction services in FY19 and FY20.</p> <p>The DoD spent \$5.37 billion OCONUS on construction services, which fall under the criteria for a defense contractor to submit a CTIP compliance plan.</p> <p>This reveals a \$37.3 billion gap in CTIP prevention and monitoring since those construction services were performed domestically and not covered under the criteria for submitting a CTIP compliance plan.</p>	<p>The DoD spent \$3.29 billion on food and food products in FY19 and FY20.</p> <p>In FY19 and FY20 there was less than \$1 million spent for food and food products in Tier 3, Tier 2 Watch List, and Special Case countries.</p> <p>Food and food products are considered COTS items and do not require a CTIP contractor compliance plan.</p>



Of the DoD's \$66.52 billion in foreign spending during FY2018 through FY2020, \$13.1 billion were in Special Case, Tier 2 Watch List, and Tier 3 countries. This indicates that nearly 20% of the DoD's foreign spending is at risk to human trafficking, given that it was spent in countries the DoS identifies as a higher risk. Furthermore, the analysis revealed that more than \$161 million of the DoD's foreign spend was in Special Case countries from FY2018 to FY2020.

Personal Protective Equipment (PPE)

The DoD spent a total of \$6.66 billion for PPE in FY2019 and FY2020. PPE is considered a COTS item, meaning it is not covered under the criteria for requiring a CTIP compliance plan from a defense contractor. Furthermore, a significant gap in CTIP prevention is created with \$5.26 million spent on PPE in Tier 3 countries where there is no expectation for the countries to enforce anti-trafficking policies locally. We also note that, due to the dramatic increase for PPE created by the COVID-19 pandemic, a total of \$6.66 billion was spent on PPE in just two fiscal years.

Construction Services

The DoD spent \$42.42 billion for construction services in FY2019 and FY2020. In total the DoD spent \$5.37 billion OCONUS on construction services. These are the only areas of construction spend that fall under the current regulatory criteria for a defense contractor to submit a CTIP compliance plan. This reveals a \$37.3 billion gap in CTIP prevention and monitoring for those construction services performed domestically and not covered under the criteria for submitting a CTIP compliance plan. Like PPE, this leaves a significant amount of DoD spend at risk to human trafficking given that the construction services market is listed as an area of high risk by the Department of Labor.

Food and Food Products

For FY2019 and FY2020 there was less than \$1 million spent for food and food products in Tier 3, Tier 2 Watch List, and Special Case countries. In total, the DoD spent \$3.29 billion on food and food products in FY2019 and FY2020. In conclusion, like PPE, food and food products are considered COTS items and do not require a CTIP contractor compliance plan according to FAR 22.17 and FAR 52.222-50. Food products are highly heterogeneous and involve diverse and complex supply chains. This area of spend would require further, more granular exploration to identify the highest areas of risk within the category.

Program Evaluation

In addition to a spend analysis, we conducted a program evaluation of the DoD's CTIP training for acquisitions personnel. The program evaluation categorized elements of the training related to PMR and human trafficking. The DoD CTIP training had a total of eight pages. Only seven of the pages contained content that could be evaluated. The pages were large in content, and some contained information that fit into multiple categories. The purpose of the program evaluation was not to critique the content of the training but to explore and illuminate how much, if any, of PMR attributes were covered within the training. The final page was a conclusion slide and was not applicable to categorization. The reviewers of the training are the authors of this research, and the results appear in Table 2. We conclude that the DoD CTIP training focuses heavily on the preventative aspect of the problem and is far more sparse on monitoring and response sections.



Table 2. Analysis of DoD CTIP Training

Pages	Categories								
	Reviewer #1			Reviewer #2			Reviewer #3		
	Prevention	Monitoring	Response	Prevention	Monitoring	Response	Prevention	Monitoring	Response
Page 1 of 8	X			X			X		
Page 2 of 8	X			X	X		X		
Page 3 of 8	X			X			X		
Page 4 of 8	X	X		X	X		X		
Page 5 of 8		X			X			X	
Page 6 of 8			X	X		X			X
Page 7 of 8	X	X		X			X		
Page 8 of 8	N/A			N/A			N/A		

Recommendations

The following recommendations were developed in response to our findings. First and foremost, these recommendations should be implemented in areas deemed to be high risk that are identified by a spend analysis. The recommendations have been grouped according to the PMR elements described earlier and should be implemented in their respective contract life cycle stages. The following paragraphs summarize a few of our prevention recommendations. In-depth analysis and the full list of recommendations can be found in our thesis at the Acquisition Research Program Defense Acquisition Innovation Repository (<https://nps.edu/web/acqnresearch/dair>).

Prevention

A recent DoD Inspector General (DoDIG) inspection revealed that there were contracts missing the mandatory clause, 52.222-50, Combatting Trafficking in Persons (DoDIG, 2019, p. i). FAR 22.1705(a)(1) mandates the CTIP clause to be in all solicitations and contracts. Thus, we recommended automating the inclusion of the clause in all DoD contract writing systems. An automation of the CTIP clause would essentially eliminate any solicitations and contracts missing the required clause. The automation prevents a contracting agency from not putting the CTIP clause in a solicitation or contract through a DoD contract writing system further strengthening zero tolerance to human trafficking.

DoD Instruction 2200.01 requires that acquisition-specific human trafficking be taken every three years by all acquisition personnel. We recommend before use and at time of log on to a contract writing system that personnel must be current in acquisition CTIP training. For example, a contract specialist in the Air Force would not be able to log in to the Contracting Information Technology (CON-IT) system if their training was not current. We envisioned the process would be something like DoD cyber awareness training, where an Air Force network user who is not current on their training is not allowed full access rights to their computer until the training is complete. This raises CTIP training to a level commensurate with a zero tolerance policy. This recommendation should further incentivize acquisition personnel to get the training done, and force leadership engagement when mission essential acquisition activities are impacted due to personnel not having access to their systems.

We recommend that contracting agencies that deal with contracts in high-risk areas to human trafficking, whether by regional or categorical market, create a CTIP acquisition representative to monitor their unit's CTIP training, conduct spend analyses, and participate in multi-function teams as they relate to the contract life cycle. For example, the CTIP acquisition representative would participate in industry days, post-award conferences, and annual surveillances. This recommendation falls in line with the OMB's memorandum on Anti-trafficking Risk Management Best Practices & Mitigation Considerations (Weichert, 2019).



Monitoring

The monitoring recommendations related to the post-award and contractor performance stages of the acquisition process. Monitoring, as it relates to acquisitions, is not intended to go and look for human trafficking, but instead our intent is to refocus activities already in place to increase awareness and provide tools to identify high-risk areas.

The Contracting Officer Representative (COR) is the eyes and ears to the contracting officer. CORs have a large set of responsibilities that relate to requirements generation, contractor performance and payment, and ensuring that what the government receives is according to what is contracted. A COR completes these duties by interaction with contractor employees through labor checks, inspections, and progress checks. We recommend including questions related to human trafficking in their daily inspection checklists. The human trafficking related questions presented during these inspections and labor checks will create opportunities for potential victims to have a chance to speak with a COR and raise flags, and/or focus the attention of the COR on potential human trafficking situations within their contract portfolio.

We recommend a risk model to help contracting agencies identify where TIP risk exists based on agency/organizational spend and type of market (e.g., PPE, food and food services, construction services, etc.), as shown in Figure 1.

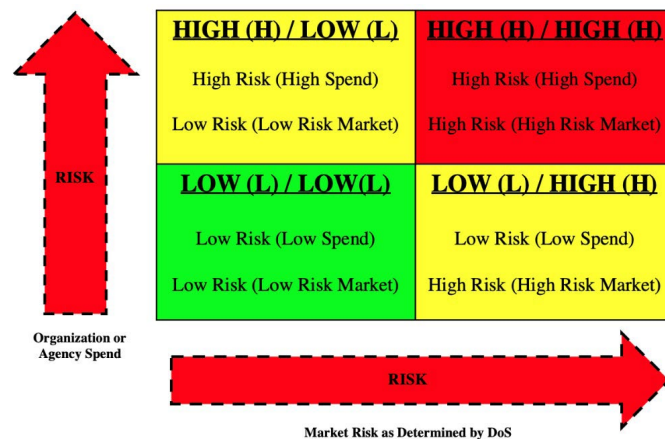


Figure 1. Risk Model Template

We developed the Human Trafficking Risk Dashboard Prototype (see Figure 2) in collaboration with the Air Force Installation Contracting Center, AFICC/KA. The Human Trafficking Risk Dashboard Prototype allows a user to conduct a spend analysis in seconds compared to the spend analysis we conducted for our research. The data is up to date with the most recent data received from FPDS-NG and cleansed by the AFICC/KA team. We use DoD spend data and combine it with the tier system from the DoS. This blend of data features allows agencies to instantly identify where their spend is going. For example, if an agency selected their DoDAAC and filtered to Tier 3 countries, they would be able to identify all their agency spend that is going to a high-risk area to human trafficking. Once identified, those contracts could be flagged for increased focus and awareness to human trafficking.

Combatant commands or high-level commands could run these exercises and work together with the DoD CTIP PMO to identify not only what they should be doing to ensure human trafficking is prevented, but also where to start. The tool is limited by areas where data is incomplete or unavailable. For example, DoD spend data is only captured at the prime level in this tool and only available at the first tier subcontract for some contracts. Much of the risk may lay at lower levels within the supply chain. However, this tool is a strong starting place from



which to demonstrate proof of concept and encourage greater visibility into supply chain tiers and illuminating further risks.¹

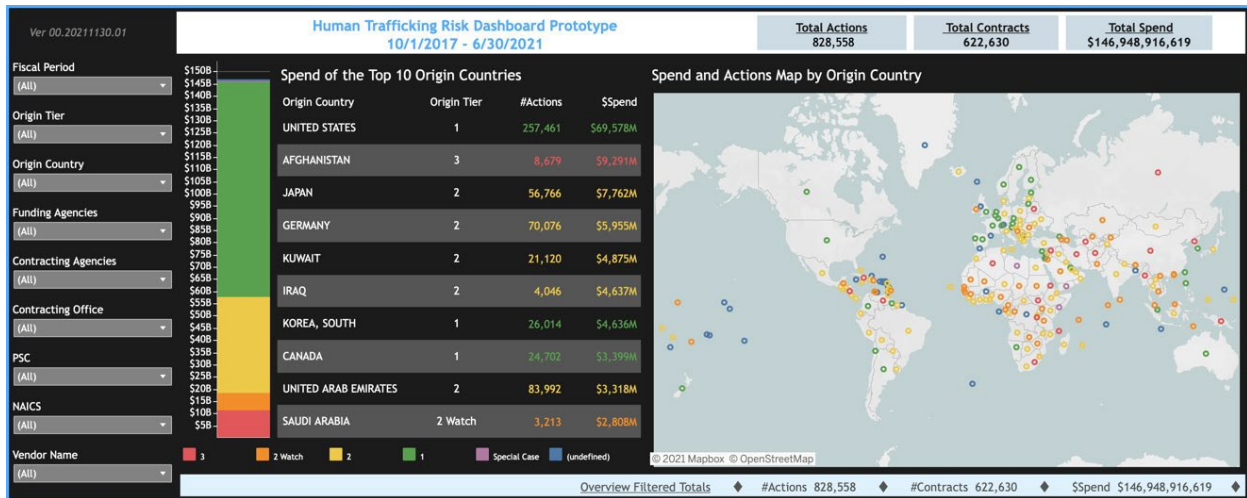


Figure 2. Human Trafficking Risk Dashboard Prototype Screenshot
AFICC/KA (2021, p.1)

Response

Unfortunately, human trafficking is a reality. We provided examples of TIP occurring in or around DoD contracts or acquisitions in our thesis. While acquisitions as a career field is not a primary stakeholder, like law enforcement, in response, they do play a role. We recommended acquisitions personnel have more interactions with agencies who are responsible for responding to human trafficking and when human trafficking is discovered around or within performance of a DoD contract. By bringing in acquisition employees could increase the buy-in, raise awareness, and strengthen response. To date our research has opened up channels of communication across the DoS; OMB; the Federal Law Enforcement Training Center; the Morale, Welfare, Recreation, and Resale Policy Directorate; and the President’s Interagency Task Force to Monitor and Combat Trafficking in Persons (PITF). This is the best first step in improving our federal response and building a true zero tolerance environment.

Conclusion

Human trafficking is a huge global issue, and we would not be able to stop human trafficking with one thesis. We conducted research that would result in practical and tangible outcomes that could move toward the right direction and foster a true zero tolerance of human trafficking. The American taxpayer entrusts the USG to spend their dollars ethically. In order to do so we need to make sure that we are not allowing human trafficking to be affiliated with federal acquisition. Notwithstanding the fact that human trafficking is an atrocity for the victims, it also injects a supply chain risk by creating networks that are volatile, unreliable, and unethical. The USG cannot rely on supply chains that are associated with human trafficking and be fighting to rid human trafficking from the globe. With the USG’s zero tolerance to human

¹ These recommendations are not inclusive of all recommendations that were presented in our final research. Explanations fully capture the entirety of what was written on these recommendations in our research. However, if interested in both recommendations, please go to our thesis to find further information on them. The last recommendation section will discuss response recommendations.



trafficking, the maximum effort needs to be put toward ensuring our acquisitions are solid in preventing, monitoring, and responding to human trafficking. If there are any further questions, please refer to our thesis or feel free to reach out to us. Thank you for your time and our united fight against human trafficking.

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