

HOLD UNTIL RELEASED BY THE
HOUSE COMMITTEE
ON OVERSIGHT AND GOVERNMENT REFORM

WRITTEN STATEMENT OF

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BEFORE

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE FOR OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE ON SUBCOMMITTEE ON TECHNOLOGY, INFORMATION POLICY,
INTERGOVERNMENTAL RELATIONS AND PROCUREMENT REFORM

ON

HUMAN TRAFFICKING AND ABUSIVE LABOR PRACTICES

March 27, 2012

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Chairman Lankford, Ranking Member Connolly, and members of the Subcommittee, thank you for the opportunity to appear before you today to discuss our efforts to combat trafficking in persons.

I am Richard Ginman, the Director of Defense Procurement and Acquisition Policy (DPAP) in the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)), where I am responsible for Department-wide contracting policy and functional leadership. I am a Career Civil Servant, with more than 40 years experience in government and commercial business in the fields of contracting, acquisition, and financial management. Before returning to DPAP duties in October 2006, I held several private sector positions including Vice President of General Dynamics Maritime Information Systems and Director of Contracts for Digital System Resources. I served in the United States Navy for 30 years, retiring as a Rear Admiral, Supply Corps. In addition to three tours afloat, I served in a variety of contracting and acquisition positions that included Commander, Navy Exchange Service Command; Deputy for Acquisition and Business Management in the office of the Assistant Secretary of the Navy, Research Development and Acquisition; and Deputy Commander for Contracts, Naval Sea Systems Command.

I work closely within the Office of the Secretary of Defense to ensure that DoD policies for other functional areas which affect contractors are properly implemented into the Defense Federal Acquisition Regulation Supplement to provide guidance to contracting officers and contractors for executing DoD contracts. With regards to Combating Trafficking in Persons (CTIP), my top priority is to support the Federal Government and Defense Department's zero tolerance policy. We support the Office of

the Under Secretary of Defense for Personnel and Readiness in their efforts to manage the DoD Trafficking in Persons Program required by the Trafficking Victims Protection Act of 2000 and subsequent Reauthorizations.

We promulgate contracting guidance to DoD's contracting community primarily through policies and the Defense Federal Acquisition Regulation Supplement (DFARS). The purpose of the DFARS is to provide the roadmap for the acquisition workforce to acquire the goods and services DoD requires to ensure America's warfighters continued worldwide success. At the Federal level, we participate in the Federal Acquisition Regulatory Council and work with the Office of Management and Budget's Office of Federal Procurement Policy, the General Services Administration, and National Aeronautics and Space Administration to manage the Federal Acquisition Regulation (FAR). The FAR provides uniform policies and procedures for acquisition by all Executive agencies.

The DoD CTIP program implements requirements of the Trafficking Victims Protection Act of 2000 and subsequent Reauthorizations in DoD Instruction 2200.01 Combating Trafficking in Persons (CTIP) Series (latest version September 2010). The Department of Defense policy has evolved over time. In 2004, the Secretary of Defense put forth his zero tolerance policy on Combating Trafficking in Persons, which was addressed to all DoD members – military, government civilian and contractor civilian. This was followed in 2007 by Department of Defense Instruction 2200.01, "Combating Trafficking in Persons," which requires the incorporation of provisions in overseas contracts that: a) prohibit any activities on the part of contractor employees that support or promote trafficking in persons and b) impose suitable penalties on contractors that fail

to monitor the conduct of their employees. Due to the interagency nature of the policy, a Federal Acquisition Regulation prescription and clause was developed and implemented as an interim rule in April 2006 and as a final rule in August 2007. Subsequently, the Federal Acquisition Regulation CTIP requirements were updated in 2009. The Defense Federal Acquisition Regulation Supplement at subpart 222.17 provides DoD contracting guidance to implement CTIP in DoD solicitations and contracts. This includes: 1) key policy references; 2) basic contract requirements; 3) Quality Assurance Surveillance Plans requirements; 4) information on where to find Geographic Combatant Commander related CTIP guidance when incorporating such requirements into the contract; 5) notification that the FAR clause cannot be deleted if its use is prescribed; and 6) actions the contracting officer must take when notified of a violation of the clause.

For Iraq and Afghanistan, US Central Command, through the Joint Contracting Command (Iraq/Afghanistan) and subsequently, its successor, the Joint Theater Support Contracting Command, has required that all services and construction contracts which require performance in Iraq and Afghanistan, incorporate into the associated solicitations and contracts, a local clause “Prohibition Against Human Trafficking, Inhumane Living Conditions, and Withholding of Employee Passports.” This clause provides additional requirements that contractors must follow to protect its employees and subcontractors at all tiers. This includes:

- (a) Reminding contractors of the prohibition contained in Title 18, United States Code, Section 1592, against knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document,

of another person, to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel, in order to maintain the labor or services of that person.

(b) Requiring contractors to comply with the following provisions: 1) Hold employee passports and other identification documents discussed above only for the shortest period of time reasonable for administrative processing purposes; 2) Provide all employees with a signed copy of their employment contract, in English as well as the employee's native language that defines the terms of their employment/compensation; 3) Do not utilize unlicensed recruiting firms, or firms that charge illegal recruiting fees; 4) Provide adequate living conditions (sanitation, health, safety, living space) for their employees. Fifty square feet is the minimum acceptable square footage of personal living space per employee. Upon contractor's written request, contracting officers may grant a waiver in writing in cases where the existing square footage is within 20% of the minimum, and the overall conditions are determined by the contracting officer to be acceptable. A copy of the waiver approval shall be maintained at the respective life support area; 5) Incorporate checks of life support areas to ensure compliance with the requirements of this Trafficking in Persons Prohibition into their Quality Control program, which will be reviewed within the Government's Quality Assurance process; and 6) Comply with International and Host Nation laws regarding transit/exit/entry procedures, and the requirements for visas and work permits.

(c) Advising the Contracting Officer if they learn of their employees violating the human trafficking and inhumane living conditions provisions contained herein.

Put on notice that contracting officers and/or their representatives will conduct random checks to ensure contractors and subcontractors at all tiers are adhering to the law on human trafficking, humane living conditions and withholding of passports.

(d) Requiring incorporation of the substance of this clause, including this paragraph, in all subcontracts under this contract.

More recently, DPAP, in coordination with the CTIP Program Manager, has taken additional actions to improve awareness and the effectiveness of DoD's CTIP Program as applies to contracting and contractors. A brief chronology and description of these efforts follows:

- DECEMBER 2007 - The Defense Contingency Contracting Officer's Guide initially published. It has been updated twice (last update in June, 2010) and exists in both print and electronic versions. Interim updates are published electronically. These guides have all included CTIP content.
- JUNE 2010 – The Defense Contingency Contracting Officers Representative (COR) Guide initially published electronically on the DPAP website, followed by a print version in December 2010. Includes CTIP content.
- FEBRUARY 2011 – DCMA Afghanistan created and published a more robust stand-alone CTIP Examination checklist used by CORs, Quality Assurance Representatives (QARs) and Government Product Representatives (GTPRs) on

contracts delegated to DCMA for administration. Similar requirements for Iraq and Kuwait.

- AUGUST 2011 – DPAP released CTIP Brochure “Fair Treatment for All Workers: Supporting U.S. Installations Abroad.” Printed copies shipped to C-JTSCC in Iraq and Afghanistan. Electronic copy posted to DPAP and CENTCOM Contracting Webpage.
- AUGUST 2011 - CTIP related guidance for contracting officers approved for addition to DFARS PGI at 207.1(b)(20)(C)(10) (planning guidance) and 222.170 (updated guidance and references).
- NOVEMBER 2011 – Pocket sized CTIP reference card produced, translated into 7 languages: Pashtu, Malay, Urdu, Thai, Tagalog, Arabic and Dari. Printed copies shipped to C-JTSCC in Iraq and Afghanistan. Electronic copy posted to DPAP and CENTCOM Contracting Webpage.
- NOVEMBER 2011 - The DoD amended DFARS PGI 222.1703 to update the link to the DoD CTIP webpage and also update the policy guidance to reflect the 2010 version of DoDI 2200.01 .
- DECEMBER 2011 – Added a CTIP Topic Section to the DPAP Contingency Contracting Webpage
- FEBRUARY 2012 - New contract administration function (S-73) for administering TIP added to DFARS 242.302. Associated language at DFARS 222.1703.
- MARCH 2012 - DoD publishes in Federal Register a proposed DFARS Rule “Alleged Crimes By or Against Contractor Personnel (DFARS Case 2012-

D006).” Proposes to expand existing DFARS coverage currently applicable only to DoD contracts performed in Iraq and Afghanistan and make it applicable worldwide for contractors supporting contingency operations, humanitarian or peacekeeping operations, or other military operations or military exercises, when designated by the Combatant Commander. Expanding the coverage worldwide will provide contractors the guidance they need to take actions should alleged offenses by or against contractor personnel occur.

DPAP will continue to work aggressively with the CTIP Program to support their efforts to improve visibility of and compliance with the Federal and Department of Defense CTIP Program among contracting officers and contractors worldwide. Two of my staff are members of the DoD CTIP Program Manager’s Task Force. We participated in the development of the Department’s CTIP Plan of Action and Milestones.

Contractors are paramount to the success of DoD’s missions. Our efforts include initiatives for their compliance with DoD’s CTIP policy. In October 2006, DoD published an anti-trafficking interim rule clause within the DFARS for contracts performed outside the United States. The clause required contractors to establish an awareness program to inform employees regarding TIP. The clause also required contractors to develop policy and procedures that prohibit any activities on the part of contractor employees to establish an awareness program to inform employees regarding TIP.

The Federal Acquisition Regulation was amended to include a TIP clause in 2009 that required the contractor to notify its employees of the US Government’s zero tolerance policy toward TIP and to take appropriate action against employees or

subcontractors that violate the policy. It did not require contractors to establish an awareness program for their employees. When the FAR rule was published, the DFARS Procedures, Guidance, and Information (PGI) Part 222, was modified to add a clause for contractors regarding DoD's zero tolerance policy and CTIP training program. A DFARS requirement, published in February 2012 the Federal Register, adds additional contract administration duties to maintain surveillance over contractor compliance with Trafficking in Persons requirements for all DoD contracts, as specified in the FAR clause 52.222-50 on TIP.

At the end of the 90's our nation implemented a deliberate strategy to reduce reliance on organic forces for combat and combat service support in favor of contracted support. However, during OIF/OEF, the rate of growth of contracted support challenged DoD's ability to put in place the overarching framework necessary to properly manage and control contractors in forward areas, including aspects related to management of their personnel on the battlefield. The growth of contracted service support resulted in a huge expansion of contractor personnel working and residing on forward operating bases, including many personnel from third country nations and local nationals. While traditionally contractors are responsible for the logistics support of their personnel stateside, the hostile environment in Iraq and Afghanistan dictated that DoD rapidly grow its capability to manage and control the masses of contractor personnel who now lived and worked on forward operating bases. DoD policies and doctrine associated with managing these contractor personnel continue to evolve. The Department takes seriously the responsibilities associated with countering Trafficking in Persons and the need to

ensure we properly manage and oversee all contractor personnel authorized to accompany the force, regardless of origin.

I thank you for the opportunity to speak about the DoD`s CTIP program and some of our DPAP initiatives to combat trafficking in persons.

Defense Procurement and Acquisition Policy



Mr. Richard Ginman
Director, Defense Procurement
and Acquisition Policy

Richard T. Ginman

Director, Defense Procurement and Acquisition Policy

Mr. Richard T. Ginman assumed the position of Director of Defense Procurement and Acquisition Policy (DPAP) in June of 2011. In that capacity he is responsible for domestic, international, and contingency contract policy, Acquisition policy and oversight of DoD 5000.1 and 2, oversight of the DFARS and the DoD member of the FAR council, as well as Program Development and Implementation with regard to E-Business, and finally oversight of the Purchase card program. He also serves as co-leader and proponent of the Pricing and Contracting Community within the Department of Defense.

He assumed the position of Deputy Director Contingency Contracting and Acquisition Policy (DPAP) in March, 2010. In February 2008 he assumed the position of Principal Deputy to the Director of DPAP. In that capacity, he is the principal advisor to the

Director for all contracting and procurement policy areas including program acquisition strategies, incentives, program execution, Peer reviews, contingency contracting and acquisition policy.

Mr. Ginman has more than 37 years experience in government and commercial business in the fields of contracting, acquisition management, logistics and financial management. Among his previous assignments, he has been Vice President, Maritime Information Systems for General Dynamics Advanced Information Systems; Director of Contracts, Digital System Resources; Commander, Navy Exchange Service Command; Deputy for Acquisition and Business Management for the Assistant Secretary of the Navy (RD&A); and Deputy Commander for Contracts, Naval Sea Systems Command.

Throughout his career, Mr. Ginman has led large organizations with complex budget and fiscal challenges during periods of substantial change. In addition to the positions above Mr. Ginman's extensive work experience includes tours at the Naval Ordnance Systems Command; Naval Sea Systems Command; Naval Air Systems Command; Naval Regional Contracting Office, Long Beach; Long Beach Naval Shipyard, Office of the Secretary of Defense and the U.S. Embassy, Morocco. In addition he has served on USS Puffer (SSN 652), USS Ranger (CV 61) and USS Hunley (AS 31).

Mr. Ginman was commissioned an Ensign in the Supply Corps, United States Navy in 1970 and retired as a Rear Admiral in 2000. He received a Bachelor of Arts from Williams College, a Masters of Business Administration from George Washington University and attended the University of Southern California's Executive Program in Business Administration. He received the Office of the Secretary of Defense Medal for Exceptional Civilian Service (2009, 2011). His personal military awards include the Defense Superior Service Medal, Legion of Merit, Defense Meritorious Service Medal, Meritorious Service Medal, and Navy Commendation Medal.