



## **Response to Fiscal Analyses: AB 964 (2023) and SB 1157 (2024)**

The Loyola Law School – Sunita Jain Anti-Trafficking Initiative (“SJI”) works to end human trafficking by evaluating evidence-based data and working with survivors of human trafficking to enact anti-trafficking laws and policies at the local, county and California State levels. SJI writes to address the fiscal analyses of Senate Appropriations Committee, the Assembly Appropriations Committee, the Department of Justice (“DOJ”) and California Department of General Services (“DGS”) of SB 1157 (Hurtado)(2024) and its predecessor AB 964 (Rodriguez) (2023) (hereinafter “Anti-Trafficking Procurement Policy”). For reference, The 2024 Senate Committee on Appropriations (“SCA”) Analysis can be reviewed [here](#), the 2023 fiscal report from the California Department of General Services (“DGS”) can be reviewed [here](#) and the Assembly Committee on Appropriations (“ACA”) Analysis can be reviewed [here](#).

Our assessment of the actual implementation cost for this Anti-Trafficking Procurement Policy is based on publicly available information as well as data collected from federal officials who worked to implement the federal procurement policies upon which SB 1157 and AB 964 were based.<sup>1</sup> For the reasons outlined below, we believe the cost of implementing this Anti-Trafficking Procurement Policy would be the original DGS [estimate](#) of \$100,000 provided in 2023.<sup>2</sup>



### **History of CA Anti-Trafficking Procurement Legislation**

SB 1157 (Hurtado) was formerly introduced as AB 964 (Ortega) in 2023. In 2023, DGS estimated that this bill would cost approximately \$100,000 in one-time administrative workload to resign processes to include this new certification requirement, revise the State Contracting Manual, and develop forms and training materials for state agency use. The changes required by AB 964 are the same changes required by SB 1157 as it was introduced and considered by DGS when it made its 2024 cost estimate.<sup>3</sup> In fact an amendment made to [SB 1157 in April of 2024](#) eliminated annual certification requirements and therefore should in fact have made SB 1157 less expensive to implement than the 2023 bill. This amendment does not seem to be considered in the 2024 Senate analysis.

### **Response to Senate Appropriations Analysis for SB 1157 (2024) and AB 964(2023)**

#### ***Summary***

Despite the estimate given by DGS only one year earlier, the 2024 fiscal analysis for SB 1157 details that DGS estimates start-up cost of 990,000 or \$41,250/month for two years. This is nearly 10X the estimate that DGS provided in the year prior for the exact same legislation. Further DGS estimates for the first time in 2024 an ongoing cost of \$825,000 annually for staff. **Based on conversations with federal officials who have implemented the federal procurement policies upon which SB 1157, we believe the estimate provided of \$100,000 for SB 1157 predecessor, AB 964, is in line with the actual cost of implementation for this legislation.**

<sup>1</sup> Federal Acquisition Regulation (FAR), Subpart 22.17 available at <https://www.acquisition.gov/far/subpart-22.17>; 48 CFR Subpart 22.17, available at <https://www.law.cornell.edu/cfr/text/48/part-22/subpart-22.17>

<sup>2</sup> The California Department of General Services (DGS) on December 19, 2023 confirmed this estimate stating, “DGS anticipated approximately \$100,000 in one-time administrative workload to redesign processes to include this new certification requirement, revise the State Contracting Manual, and develop forms and training materials for state agency use.”

<sup>3</sup> The only amendment made to SB 1157 was to remove annual certification requirements, a measure that should in fact decrease any associated costs.

Both the 2023 and 2024 appropriations analyses also raised that the legislation could create “significant unknown costs to California’s overall procurement costs.” However, during a meeting on December 15, 2023 with SJI and several senior level Federal officials from both the Office of Federal Procurement Policy and the Office to Monitor and Combat Trafficking in Persons, it was confirmed that the Federal Acquisition Regulations (“FAR”) Subpart 22.17, upon which the CA Anti-Trafficking Procurement Policy is based, was (1) implemented with no additional appropriated resources, and (2) that the costs of Federal procurement did not increase when these regulations were enacted 8 years ago but has decreased between 2017- present.

Further SJI’s review of publicly available data on enforcement efforts under federal standards found that in [8 years only 1 federal contract had been terminated](#) as a result of procurement provisions.<sup>4</sup>

**Accordingly, the evidence available demonstrates that “significant costs” should not be anticipated when California enacts policies based on federal language which has already been enacted for nearly a decade and not resulted in any of the speculated “potentially significant” costs.**

Moreover, as elaborated below, the analyses provided fail to consider that the State already has a responsibility to monitor state contracts to prevent human trafficking and that the contractor, not the State, is required to implement the certification process for its own supply chains, proactively monitor its own supply chains for human trafficking, and remedy any issues identified.<sup>5</sup> The SCA analysis also failed to consider when discussing ongoing certification costs an amendment taken in April 10, 2024 requiring certification only at the time of initial application.

Finally, the SCA analysis includes unknown additional costs for the Department of Industrial Relations (“DIR”) and the Department of Justice (“DOJ”). However, DIR and DOJ have been tasked with bringing civil enforcement efforts and prosecuting labor trafficking in California since 2005. Therefore, because this legislation is drafted to give companies and organizations clear guidance on how to prevent human trafficking in their supply chains, these regulations could save the state money on enforcement because commercial exploitation will be prevented. Further, if trafficking is identified in California by this legislation, it will facilitate the provision of information to DOJ or DIR that these agencies can use to bring civil or criminal charges, thereby likely making it less costly for these entities to fulfill their ongoing responsibility to investigate and prosecute forced labor in our state.

We agree that the proposed bill will require some updates to the State Contracting Manual, including the creation of new forms and training materials for the state agency to use but DGS’ estimate of \$825,000 for on-going annual costs or \$990,000 for start-up costs are unfounded.

In conclusion a careful reading of the 2024 and 2023 fiscal analyses demonstrates that evidence does not substantiate the costs outlined for the legislation. On the contrary, information provided from public reports and federal procurement experts confirm that this exact same policy enacted federally, as drafted, can be implemented using DGS’ original estimation of \$100,000.

### ***Specific Responses to Costs Raised***



**DGS** - The language of SB 1157 (Hurtado) and its predecessor AB 964 (Rodriguez) does not require the state to implement a certification process. Rather, the onus is on the contractor to certify that they have specific protocols in place to prevent and address forced labor in their supply chains. The State’s responsibility regarding the certification process is limited to confirming that the contractor has submitted such certification. To enact this legislation across all industries - including garment, equipment

---

<sup>4</sup> The 2019 TIP Report stated that a contract was terminated after an investigation into forced labor. *See* <https://www.state.gov/wp-content/uploads/2019/06/2019Trafficking-in-Persons-Report.pdf>.165031222.2.

<sup>5</sup> See California Public Contract Code Section 6108; Title 48, Code of Federal Regulations, Subpart 22.17 – Combatting Trafficking in Persons (Title 48).

procurement and laundering services - the State need only insert the proposed boilerplate language in its Request for Proposal ("RFP") so that contractors can effectively understand and comply with the required certification process. As elaborated below, there is no evidence which shows that any particular industry would require further workload by any public department or would cause "significant fiscal impact" as speculated by the department.

Moreover, although we agree that the proposed bill will require some staff time to update the State Contracting Manual and create new forms and training materials for the state agency to use, Federal implementation has shown that this would be a one-time cost and would not take a full year to accomplish. We believe the \$100,000 estimate provided in 2023 by DGS is generous because any staff time required to implement these changes would be roughly .25 FTE in one-time expenditures thus putting the cost under \$50,000.

**DOJ & DIR** –These agencies estimated ongoing costs fail to consider that its staff and auditors and Federal DOJ are already required to monitor contracts to prevent human trafficking and child labor, pursuant to existing state and federal law. *See California Public Contract Code Section 6108; Title 48, Code of Federal Regulations, Subpart 22.17 – Combatting Trafficking in Persons ("Title 48").* Thus, the job responsibilities of existing staff and auditors will not increase drastically enough to warrant the estimated ongoing costs. As mentioned, the proposed bill places the responsibility on the contractor to submit the certification, implement a program to prevent and address forced labor in the supply chain, and ensure any subcontractors they hire do the same. Further, once DOJ and DIR staff and auditors are trained, they will be able to implement the proposed bill's provisions in conjunction with the existing requirements of the current contracts.

**AAC /SCA-** These analyses allege that "potentially significant" costs would come from the legislation because it would deter contractors from bidding, or that other contractors will "pass along costs to the state" to compensate for the alleged "added administrative burden." The 2024 further mentions additional workload across departments that use garments, equipment procurement and laundering services. These arguments are misplaced and made without any evidence. First the SCA and the AAC do not explain how the receipt and filing of a certification once a year would result in "significant" costs to the state agency or departments utilizing specified services. Second, the state agency is not required to "pursue" the contractors. The responsibility is on the contractor to provide such certification annually. Should the state agency discover that the contractor has not submitted the certification, a simple follow up email or phone call would suffice.

Further the SCA does not consider the amendment to SB 1157 taken on April 10, 2024, which removed the responsibility of an annual certification being provided to a contracting officer. Thus SB 1157 at the time of the SCA analysis only required certification when a business initially applied for a contract. Therefore, none of the ongoing costs discussed around annual certification in the SCA regarding additional workload for implementation are applicable.

Further support for why none of the speculated costs should result is based on a meeting on December 15, 2023 with SJI and several senior level federal officials<sup>6</sup> from both the Office of Federal Procurement Policy and the Office to Monitor and Combat Trafficking in Persons where it was confirmed that (1) the FAR which has the same annual certification requirements was implemented with no additional appropriated resources, and (2) federal procurement did not go up between 2017 to present but actually decreased during the years of implementation.<sup>7</sup> Accordingly, the evidence demonstrates that "significant costs" should not be anticipated.



Finally, the analyses allege that terminating or resolving contract disputes with a contractor for violating the proposed bill would result in significant administrative and legal workloads. However, termination is not automatic and absent extreme situations, is rarely necessary.<sup>8</sup> The proposed bill language specifically mentions that remedial efforts on the part of the contractor, including its willingness to come forward with any wrongdoing it discovers in its supply chains and cooperate with an investigation, can lead to less severe consequences that would not result in a lost contract. Additionally, based on [an analysis of the U.S. Trafficking in Person's \("TIP"\) Reports from 2017 – 2023](#), which reports annually on the impact of Federal Procurement Legislation, there has only been one contract terminated in the 8 years that the federal requirements have been implemented. This demonstrates that as State adopts the exact same Federal requirement upon which the proposed bill is based, there would be no significant administrative and legal workload increases.

As stated, contractors are already required to comply with anti-trafficking laws pursuant to federal and state law and similarly face the potential of termination as a result of noncompliance. Accordingly, should a contractor face termination for not complying with this legislation's more explicit detailed requirements, the state's responsibility to solicit new bids would not be considered an added task, but one that already falls under the state agencies' purview.

## Conclusion



In conclusion, this CA Anti-Trafficking Procurement Policy proposes a modest change in existing law that would prevent and address forced labor in state contracts. Based on examining the implementation of this exact policy at the Federal level there have been no delays in contracting of time-sensitive goods, only 1 private contract has been terminated in 8 years of enforcement, and the cost of federal procurement processes over the last 8 years has not increased due to these regulations but decreased since 2017. Accordingly, California can adopt these exact regulations just as the Federal government has with limited additional resources.

The Sunita Jain Initiative would be happy to provide additional information and materials on these issues based on our specific expertise with these programs and trafficking victims specifically. We look forward to further discussions on this legislation.

## ABOUT THE SUNITA JAIN ANTI-TRAFFICKING INITIATIVE

Sunita Jain Anti-Trafficking Policy Initiative (SJI) is an evidence-based and survivor-informed think tank based out of Loyola Law School. SJI intentionally works towards systemic change by taking an intersectional approach to develop and advocate for policies which prevent human trafficking and support survivors of trafficking.

## CONTACT INFORMATION



Stephanie Richard, Esq.  
Policy Director  
[stephanie.richard@lls.edu](mailto:stephanie.richard@lls.edu)  
(213) 375-8377

Aradhana Tiwari, Esq.  
Senior Policy Counsel  
[aradhana.Tiwari@lls.edu](mailto:aradhana.Tiwari@lls.edu)  
(213) 736-8377



<sup>8</sup> Executive Office of the President, Office of Management and Budget, *Memorandum for the Heads of Executive Departments and Agencies, Attachment C – Mitigating Factors*, October 21, 2019, <https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-01.pdf> ("If trafficking issues arise during the performance of a contract, FAR 52.222-50(f) instructs contracting officers to take into account mitigating factors in determining remedies. Mitigating factors are designed to strike a balance between the effectiveness and reasonableness of the contractor's actions. This balanced approach should help ensure achievement of the desired goals of the regulation without imposing unmanageable regulatory burdens or expectations on the contract community.")

