

United States Senate

WASHINGTON, DC 20510

November 4, 2019

The Honorable William Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

The Honorable Mike Pompeo
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

The Honorable Eugene Scalia
Secretary
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

The Honorable Kevin McAleenan
Acting Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave S.E.
Washington, D.C. 20528

Dear Attorney General Barr, Secretary Pompeo, Secretary Scalia, and Acting Secretary McAleenan:

We write to better understand the efforts your agencies have made to ensure human trafficking and forced labor are not present in the supply chains of the companies with which your agencies contract. It is imperative that the U.S. government does everything in its power to ensure the federal procurement process is not complicit in human trafficking or forced labor, and we ask you to detail the actions your agencies have taken to comply with Executive Orders (EOs) 13126 and 13627.

Executive Order 13126, *Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor*, was signed by President Bill Clinton on June 12, 1999, and required federal contractors to certify that they made a “good faith effort” to determine whether forced or indentured child labor was used to produce or manufacture any product covered under the contract in question. The EO also required contractors to provide government officials access to their records to determine whether forced or indentured child labor was used in the making of any product covered by the contract. Finally, the EO allowed agency heads to terminate a contract or debar or suspend a contractor from federal contract eligibility for up to three years if the contracting officer determines forced or indentured child labor was used to make a product covered under the contract or the contractor provided false information or refused to cooperate with the federal agencies.

Executive Order 13627, *Strengthening Protections Against Trafficking In Persons In Federal Contracts*, was issued by President Barack Obama on September 25, 2012, to strengthen agencies’ efforts to ensure the federal procurement of goods and services does not directly or indirectly involve human trafficking. The EO mandates that federal contractors certify that they have a compliance plan to prevent human trafficking in its course of business and that neither the contractor nor its subcontractors, to the best of their knowledge, have been involved in any human trafficking activities. The EO also required the President’s Interagency Task Force to Monitor and Combat Trafficking In Persons, which includes your agencies, to establish a process for identifying contracts where there is a history of trafficking-related or forced labor activities

and for agencies to publish safeguards and guidance to help prevent human trafficking and forced labor in federal contracting in high-risk sectors. In addition, the EO instructed federal agencies to track the number of federal employees trained on combatting human trafficking.

It has been 20 years since EO 13126 was issued and seven years since EO 13627 took effect. We note that just last week the Office of Management and Budget (OMB) issued a memorandum regarding anti-human trafficking requirements in federal procurement, including those included in EO 13627. We ask your agencies to detail the actions taken under the Orders' authority and the impact of the memorandum. Specifically, we ask you to provide the requested information in response to the following questions.

- 1) Does your agency provide training to your contracting officers specific to EO 13126 and EO 13627? If so, please detail the content and duration of the training for each EO, including who conducts the training and how frequently contracting officers must receive it.
- 2) How many investigations into the possible existence of forced labor or human trafficking in a contractor's supply chain have been conducted by your contracting officers since EO 13126 and EO 13627 took effect?
- 3) How many contracts have been terminated by your agency as a result of a finding of forced labor or human trafficking; false certification regarding either forced labor or human trafficking by a contractor; or a contractor's refusal to cooperate in a related inquiry? Please identify the contracts for which these actions were taken and the date the enforcement action was taken.
- 4) Has your agency debarred or suspended a contractor as a result of obligations required under EO 13126 or EO 13627? If so, please identify the contracts and contractors for which these actions were taken. In addition, please provide the date this enforcement action was taken.
- 5) How often does your agency request compliance plans from contractors pursuant to EO 13627?
- 6) Has your agency issued safeguards and guidance regarding high-risk sectors for human trafficking and forced labor pursuant to EO 13627? If so, what are the high-risk sectors that have been identified?
- 7) How many contracts does your agency have in high-risk sectors? Were all of those contracts given extra scrutiny to determine that no human trafficking or forced labor were found in the related supply chains of the contractor or subcontractor?
- 8) The OMB Memorandum dated October 21, 2019 with the subject "Anti-Trafficking Risk Management Best Practices & Mitigation Considerations" instructs contracting officers to periodically evaluate the quality of a contractor's anti-trafficking efforts. How does your agency interpret the word "periodically"? Will contracting officers at your agency be required to evaluate a contractor's anti-trafficking efforts routinely? If so, at what interval of time?
- 9) The OMB Memorandum also details the steps contractors should take when a trafficking violation is identified. Included in the steps is the development of an action plan that includes industry and other broadly demonstrated best practices for addressing violations in the supply chain. How will your agencies define industry best practices for the purposes of enforcing EO 13627?

- 10) The OMB Memorandum instructs contracting officers to consider mitigating factors if trafficking issues arise during a contract. What review process will your agency put in place to ensure contracting officers are not disproportionately taking into account mitigating factors when human trafficking violations are uncovered?
- 11) Will each of your agencies certify that no forced labor or human trafficking exists in the supply chains of all of your contracts?

The U.S. government is the largest single purchaser of goods and services in the world, and EOs 13126 and 13627 require agencies to take important steps to prevent the federal government from inadvertently supporting forced labor or human trafficking activities through its procurement. Your agencies are tasked with enforcing our human trafficking and forced labor laws, and, as such, you have a responsibility to lead the federal government's efforts to make sure its own supply chain does not involve either. We are eager to learn about the efforts your agencies have taken under EOs 13126 and 13627, and we ask for your responses by November 15, 2019.

Thank you for your consideration of this letter. We look forward to working with you to ensuring the U.S. government's supply chain is free of human trafficking and forced labor.

Sincerely,



Sherrod Brown
United States Senator



Ron Wyden
United States Senator



Richard Blumenthal
United States Senator