



Loyola Law School
Loyola Marymount University
Sunita Jain Anti-Trafficking Initiative

Subject: Response to AB 964 Fiscal Analysis

Date: 5-23-2023

From: Loyola Law School Sunita Jain Anti-Trafficking Initiative

Loyola Law School Sunita Jain Anti-Trafficking Initiative write to address the concerns raised in the Assembly Appropriations Committee (“AAC”), the Department of Justice (“DOJ”), and California Department of General Services (“DGS”) analysis of AB 964. The Loyola Law School Sunita Jain Anti-Trafficking Initiative works in collaboration with Loyola Law School to end human trafficking by working with trafficking survivors and enacting anti-trafficking laws and policies at the local, state, and national levels.

The DGS’s, DOJ’s, and AAC’s cost estimates and concerns 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.

DGS

The language of AB 964 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. Additionally, the DGS’s estimated start-up cost is premised on the fact that the certification language cannot be “implemented by adding boilerplate language to the contract itself” because the certification is due before the contract is awarded. Instead, the language will need to be inserted into a Request for Proposal (“RFP”). While it is true that the proposed contractor must submit its certification prior to being awarded the contract, the DGS fails to explain why inserting language into a different document, such as the RFP, as opposed to the contract, would result in \$100,000 in extra costs.

Moreover, 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. However, a more accurate cost estimate would fall around .25 FTE, as opposed to the DGS’s

estimate of .75 FTE. Any updates to manuals and other forms would not take nearly a full year to accomplish. Thus, a .25 FTE would put the cost under \$50,000.

DOJ

The DOJ's estimated ongoing costs fail to consider that its staff and auditors are already required to monitor contracts to prevent human trafficking and child labor, pursuant to existing federal law. See 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 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

The AAC asserts that “potentially significant” costs would stem from contracting officers receiving, filing, and when necessary, pursuing annual certifications from contractors. This argument is misplaced. First, it is difficult to imagine how the receipt and filing of a certification once a year would result in “significant” costs to the state agency. 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.

Additionally, the AAC claims that AB 964 would deter contractors from bidding, or that other contractors will “pass along costs to the state” to compensate for the alleged “added administrative burden”. However, contractors are already required to comply with anti-trafficking legislation pursuant to Title 48, which requires contractors to submit an annual certification. Thus, because AB 964 mirrors the language in Title 48, this should ease concerns about any “added administrative burden.”

Finally, the AAC alleges that terminating a contractor for violation of the proposed bill would result in significant administrative and legal workloads. However, as stated, contractors are already required to comply with anti-trafficking laws pursuant to federal law and similarly face termination as a result of its noncompliance. Accordingly, should a contractor face termination for not complying with AB 964, 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, the Western Center on Law & Poverty and Loyola Law School Sunita Jain Anti-Trafficking Initiative believe that AB 964 proposes a modest change in existing law that would prevent, and address forced labor in state contracts. We 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 AB 964.