



Office of Inspector General

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**United States Department of State
and the Broadcasting Board of Governors
Office of Inspector General**

Office of Audits

Audit of Bureau of East Asian and Pacific Affairs Compliance With Trafficking in Persons Requirements

Report Number AUD/IP-12-02, October 2011

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PREFACE

This report is being transmitted pursuant to the Inspector General Act of 1978, as amended, and Section 209 of the Foreign Service Act of 1980, as amended. It is one of a series of audit, inspection, investigative, and special reports prepared as part of the Office of Inspector General's (OIG) responsibility to promote effective management, accountability, and positive change in the Department of State (Department) and the Broadcasting Board of Governors.

This report is an assessment of Bureau of East Asian and Pacific Affairs contract, Department employee, and contractor compliance with trafficking in persons (TIP) laws, policies, and regulations. The report is based on interviews with Department employees, officials of relevant agencies and institutions and contractors, direct observation, and a review of applicable documents.

OIG contracted with the independent public accountant RM Advisory Services LLC (RMAS) to perform this audit. The contract required that RMAS perform the audit in accordance with guidance contained in the *Government Auditing Standards*, issued by the Comptroller General of the United States. RMAS's report is included.

RMAS identified four areas in which improvements could be made: development of a comprehensive *Foreign Affairs Manual/Foreign Affairs Handbook* policy on the subject of combating trafficking in persons, expanding the Department's Standards of Conduct to prohibit TIP activities, establishing an office responsible for employees to report suspected instances of TIP, and requiring training for all employees on TIP laws and policies.

OIG evaluated the nature, extent, and timing of RMAS's work; monitored progress throughout the audit; reviewed RMAS's supporting documentation; evaluated key judgments; and performed other procedures as appropriate. OIG concurs with RMAS's findings, and the recommendations contained in the report were developed on the basis of the best knowledge available and were discussed in draft form with those individuals responsible for implementation. OIG's analysis of management's response to the recommendations has been incorporated into the report. OIG trusts that this report will result in more effective, efficient, and/or economical operations.

I express my appreciation to all of the individuals who contributed to the preparation of this report.

A handwritten signature in black ink, appearing to read "H. Geisel", written in a cursive style.

Harold W. Geisel
Deputy Inspector General

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RM Advisory Services LLC

Internal Controls, Audit, Finance

Audit of Bureau of East Asian and Pacific Affairs Compliance with Trafficking in Persons Requirements

Office of Inspector General
U.S. Department of State
Washington, D.C.

RM Advisory Services LLC (referred to as "we" in this letter), has performed an audit of Bureau of East Asian and Pacific Affairs (EAP) compliance with Federal laws and regulations and U.S. Department of State policies related to trafficking in persons. This performance audit, performed under Contract No. S-AQM-MA-10F4404, was designed to meet the objectives identified in the report section entitled "Objectives" and further defined in Appendix A, "Scope and Methodology."

We conducted this performance audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. We communicated the results of our performance audit and the related findings and recommendations to the U.S. Department of State Office of Inspector General.

We appreciate the cooperation provided by personnel in Department offices during the audit.

RM Advisory Services LLC

RM Advisory Services LLC

John N. Glass, CPA
Principal

Alexandria, Virginia
September 2011

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Acronyms

A/LM/AQM	Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management
A/OPE	Bureau of Administration, Office of the Procurement Executive
CA	Bureau of Consular Affairs
CS	Civil Service
Department	Department of State
DS	Bureau of Diplomatic Security
DUNS	Data Universal Numbering System
EAP	Bureau of East Asian and Pacific Affairs
FAH	<i>Foreign Affairs Handbook</i>
FAM	<i>Foreign Affairs Manual</i>
FAR	Federal Acquisition Regulation
FPDS	Federal Procurement Data System
FS	Foreign Service
GAO	Government Accountability Office
G/TIP	Office to Monitor and Combat Trafficking in Persons
NAICS	North American Industry Classification System
NSPD	National Security Presidential Directive
OIG	Office of Inspector General
PIB	Procurement Information Bulletin
TIP	trafficking in persons
TVPA	Trafficking Victims Protection Act
TVPRA	Trafficking Victims Protection Reauthorization Act
WWTVPRA	William Wilberforce Trafficking Victims Protection Reauthorization Act

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Executive Summary

To fulfill its responsibilities under the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (WWTVPRA), the Office of Inspector General (OIG), Office of Audits, contracted with RM Advisory Services LLC (referred to as “we” in this report), an independent public accountant, to investigate a sample of contracts in the Asia-Pacific region with a heightened risk of trafficking in persons and to determine to what extent Department of State (Department) personnel and contractors are complying with laws, regulations, and policies established to prevent and detect trafficking in persons (TIP) activities on Department-awarded contracts.

We found that Department employees in the Bureau of East Asia and Pacific Affairs (EAP) and the Asia-Pacific region were not uniformly aware of what constitutes TIP activity, the penalties for TIP violations, where to report allegations of violations, and that the TIP policy applies to Department contractors. In fact, 290 Department employees responded to a survey (the General Awareness Survey is in Appendix B) that they were aware of a possible TIP violation; however, only one TIP allegation has been reported to OIG’s Office of Investigations. This lack of awareness of TIP policy occurred because the Department has not established and communicated a formal TIP policy to its employees that includes a definition of TIP activity and mechanisms to report suspected violations. In addition, although the Department’s code of conduct, published in the *Foreign Affairs Manual* (FAM),¹ prohibits employees from acquiring a commercial sex act and using forced domestic labor, it does not specifically address TIP, nor does it require employees to report suspected TIP violations. A lack of training on TIP issues has also contributed to a lack of awareness among employees. As a result, TIP violations may not be detected or reported.

We also found that contractors were not always aware of or complied with their obligations under *Federal Acquisition Regulation* (FAR) clause 52.222-50, “Combating Trafficking in Persons.” These obligations include a responsibility to notify their employees of the U.S. Government’s TIP policy and the consequences for violation of the policy. We conducted site visits to 24 contractors in the Asia-Pacific region whose contracts included FAR clause 52.222-50. Of the 24 contractors visited, we determined that 20 contractors (83 percent) had not notified their employees of the U.S. Government’s TIP policy and 22 contractors (92 percent) had not informed their employees of the consequences for violation of the policy. Additionally, six contractors hired subcontractors for the performance of services; none of these contractors had included the required language or the substance of the FAR clause in their subcontracting agreement.

A contributing factor for the lack of awareness was the fact that Department contracting officials did not consistently include FAR clause 52.222-50 in Department contracts. Of 41 contracts reviewed in the Asia-Pacific region, we found that 11 contracts (27 percent) did not contain the clause, even though the contracts were awarded after April 19, 2006, or the date when the FAR clause became mandatory. Additionally, eight contracts did not contain the correct version of the clause. Internal controls over the procurement process were not sufficient to ensure the award of contracts with the FAR clause in its correct form. Because the full text of

¹ 3 FAM 4138, “Standards of Conduct.”

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the clause was not included in their contracts, many contractors stated they were not aware of specific obligations in their contracts to notify their employees of the U.S. Government's TIP policy, the prohibition against the procurement of commercial sex acts, and the requirement to report possible violations to their contracting officer. Finally, at the time of our audit, Department procurement policies did not require contracting officers and contracting officer's representatives to verify that contractors do comply with the FAR clause.

The contractors' lack of compliance with the obligations in FAR 52.222-50 has several effects. Contractors and their employees are not always aware of the TIP policy. As a result, the U.S. Government is not well-positioned to hold a contractor responsible for complying with the contract provisions related to TIP. When contractors do not notify their employees of the policy regarding TIP, there is a missed opportunity to communicate the TIP policy more widely in the Asia-Pacific region. Finally, contractor employees may be aware of, but may not report, TIP violations by the contractors.

To increase awareness among Department employees of the TIP policy, we are recommending that the Department implement a separate policy in the FAM on TIP, expand the Department's code of conduct to prohibit TIP activities, and designate an office responsible for employees to report instances of TIP. In addition, the Office to Monitor and Combat Trafficking in Persons (G/TIP) should, in collaboration with the Foreign Service Institute, expand trafficking in persons training to all Department employees.

Near the end of our fieldwork, on March 24, 2011, the Office of the Procurement Executive (A/OPE) issued Procurement Information Bulletin (PIB) No. 2011-09, "Combating Trafficking in Persons," which requires contracting officer's representatives to ensure that all solicitations and contracts over the micro-purchase threshold (\$3,000) contain FAR clause 52.222-50. The PIB also provides guidance to contracting officer's representatives on how to monitor contracts for TIP compliance. Further, this PIB recommends that contracting officers and contracting officer's representatives provide a copy of the full text of the FAR clause to prospective contractors prior to award of the contract. Issuance of the PIB has addressed the underlying causes as to why contractors are not complying with their obligations under their contracts in regard to TIP. Therefore, we are not making any additional recommendations in this regard.

In September 2011, OIG provided a draft of this report to G/TIP. In its October 4, 2011, response (see Appendix E) to the draft report, G/TIP agreed with the substantive deficiencies identified and generally agreed with all of the report's recommendations. Based on this information, OIG considers each recommendation resolved because actions have been taken to implement the recommendations. However, the recommendations will remain open until documentation is provided that they have been fully implemented.

Background

The Department represents the United States in the global fight to address human trafficking by engaging with foreign governments, international and intergovernmental organizations, and civil society to develop and implement effective strategies for confronting

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modern slavery. The Department estimates that as many as 27 million men, women, and children are living in such bondage around the world.

The Secretary of State established, within the Department, G/TIP, which is charged with coordinating Government-wide efforts to combat human trafficking and publishing the annual Trafficking in Persons Report, which is the U.S. Government's principal diplomatic tool used to engage foreign governments on the subject of TIP. The importance of the Department's efforts in combating TIP was reinforced in a statement by G/TIP in its FY 2012 Bureau Strategic and Resource Plan:

Given the Secretary's personal interest in the issue, resources will also need to be devoted to "in-reach" to fully incorporate TIP issues into the work and culture of the Department.

What is Trafficking in Persons?

Over the past 15 years, "trafficking in persons" and "human trafficking" have been used as umbrella terms for activities involved when someone obtains or holds a person in compelled service. The Trafficking Victims Protection Act of 2000 (TVPA) describes this compelled service using a number of different terms: involuntary servitude, debt bondage, and forced labor. Under the TVPA, individuals may be trafficking victims regardless of whether they once consented, participated in a crime as a direct result of being trafficked, were transported into the exploited situation, or were simply born into a state of servitude. At the heart of this phenomenon are the myriad forms of enslavement—not the activities involved in international transportation.

TVPA defines severe forms of trafficking as follows:

- *Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or,*
- *The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.*

Trends in the Asia-Pacific Region

Asia remains a major source and destination of victims of trafficking. Among the major countries of origin are Bangladesh, Cambodia, China, Laos, the Philippines, Thailand, and Vietnam. Thailand is both a major source and destination country. Japan, Israel, and Turkey are significant destination countries for victims trafficked from Southeast Asia.

The growth in sex tourism in this region is one of the main contributing factors. Thailand, Cambodia, and the Philippines are popular travel destinations for "sex tourists" from western countries. Cross-border trafficking is prevalent in the Mekong region of Thailand, Burma, Laos, Cambodia, Vietnam, and the Southern Yunnan Province of China. According to various nongovernmental organizations' sources, hundreds of thousands of foreign women and children have been sold into the Thai sex industry since 1990, with most individuals coming from Burma, Southern China, Laos, and Vietnam. East Asia is also a destination for trafficked

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women. Victims from Southeast Asia are sent to Japan, Western Europe, the United States, Australia, and the Middle East.²

Zero Tolerance Policy

National Security Presidential Directive (NSPD) 22, issued on December 16, 2002, is a policy directive to instruct federal agencies to strengthen their collective efforts, capabilities, and coordination to support the policy to combat trafficking in persons. NSPD-22 states that eradicating trafficking includes raising awareness at home and abroad about human trafficking and how it can be eradicated. Essential elements of NSPD-22 include the following:

- The United States hereby adopts a “zero tolerance” policy regarding U.S. Government employees and contractor personnel representing the United States abroad who engage in trafficking in persons. Departments and agencies shall adopt policies and procedures to educate, as appropriate, personnel and contract employees on assignment or official travel abroad about trafficking in persons, to investigate, as appropriate, any allegations of involvement in trafficking by such personnel, and to punish, as appropriate, those personnel who engage in trafficking in persons. To the extent permitted by law, punishment may include disciplinary actions for United States Government personnel, and civil remedies such as debarment and suspension procedures for United States Government contractors engaged in trafficking.
- Department and agency heads shall expedite implementation of this Presidential Directive.
- [T]he United States Government opposes prostitution and any related activities [commercial sex acts] as contributing to the phenomenon of trafficking in persons.

Contract Requirements

The Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA) required U.S. Government grants, contracts, and cooperative agreements to contain a clause that authorized the termination by the U.S. Government without penalty if the grantee, subgrantee, contractor, or subcontractor engaged in severe forms of trafficking in persons or its respective employees procured commercial sex acts while the grant, contract, or cooperative agreement was in effect or used forced labor in the performance of the grant, contract, or cooperative agreement.

The 2003 act led to changes in the FAR and a requirement for FAR clause 52.222-50, “Combating Trafficking in Persons,” to be included in contracts awarded after April 19, 2006. The FAR clause, among other things, prohibits contractors, subcontractors and employees involved in the performance of the contract from engaging in severe forms of trafficking in persons, using forced labor in the performance of the contract, and procuring commercial sex

² Sources: UNODC, *Trafficking in Persons: Global Patterns*, April 2006, pp. 88, 89, and 103, and Congressional Research Service Report for Congress, *Trafficking in Persons: U.S. Policy and Issues for Congress*, updated on June 20, 2007.

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acts while the contract is in effect. It also establishes an obligation for contractors to inform their U.S. Government contracting officer immediately of the following:

- Any information it receives from any source (including host country law enforcement) that alleges a contractor employee, subcontractor, or subcontractor employee has engaged in conduct that violates this policy.
- Any actions taken against contractor employees, subcontractors, or subcontractor employees pursuant to the FAR clause.

The TVPRA of 2005 communicated an obligation to prevent Government employees and contractors from engaging in TIP activity. In reauthorizing the TPVA, Congress found that “the involvement of employees and contractors of the United States Government in trafficking in persons, facilitating the trafficking of persons, or exploiting the victims of trafficking in persons is inconsistent with United States laws and policies and undermines the credibility and mission of the United States government.” Congress also expanded U.S. criminal jurisdiction to Federal Government employees and contractors for trafficking offenses committed abroad.

The TVPRA of 2005 also strengthened prosecution and punishment of traffickers and provided funding for the prevention of trafficking, for the protection of and assistance for victims, and for assistance to foreign countries to meet minimum standards for the elimination of trafficking.

The WWTVPRA of 2008 provides for the Inspectors General of the Department of Defense, the Department of State, and the U.S. Agency for International Development to investigate a sample of contracts, in FYs 2010–2012, in which there is a heightened risk of a contractor engaging, knowingly or unknowingly, in acts related to TIP.

Objective

To fulfill its responsibilities under the WWTVPRA, the Office of Inspector General contracted with RM Advisory Services LLC, an independent public accountant, to review a sample of contracts with a heightened risk of trafficking in persons and to determine whether Department personnel and contractors are complying with laws, regulations, and policies established to prevent and detect TIP activities on Department-awarded contracts.

Results of Audit

Finding A. Department Employees Are Not Uniformly Aware of Trafficking in Persons Policy

The Department employees in the Asia-Pacific region are not uniformly aware of what constitutes TIP activity, the penalties for TIP violations, where to report allegations of TIP violations, and that the U.S. Government’s zero tolerance policy regarding TIP applies to Department contractors. This lack of employee awareness occurred because the Department has not established and communicated a formal TIP policy for its employees that includes the definitions of TIP activity and reporting mechanisms and has not provided adequate training to

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employees on TIP issues. In addition, although the Department has prohibited employees from procuring commercial sex acts and using forced domestic labor, the Department's code of conduct does not specifically address TIP or require employees to report suspected instances of TIP. As a result, TIP violations may not be detected or reported. In fact, 290 (17 percent) of 1,702 Department employees responding to our survey indicated that they were aware of possible TIP violations by Department employees, contractors, or their employees. However, OIG's Office of Investigations has received only one allegation on TIP.

The Government Accountability Office's (GAO) *Standards for Internal Control in the Federal Government* requires agency management to ensure effective communications in a broad sense, with information flowing down, across, and up the organization. The Department's FAM and associated *Foreign Affairs Handbooks* (FAH) provide a single, comprehensive, and authoritative source for organizational structures, policies, and procedures that govern the operations of the Department, the Foreign Service, and, when applicable, other Foreign Affairs agencies.

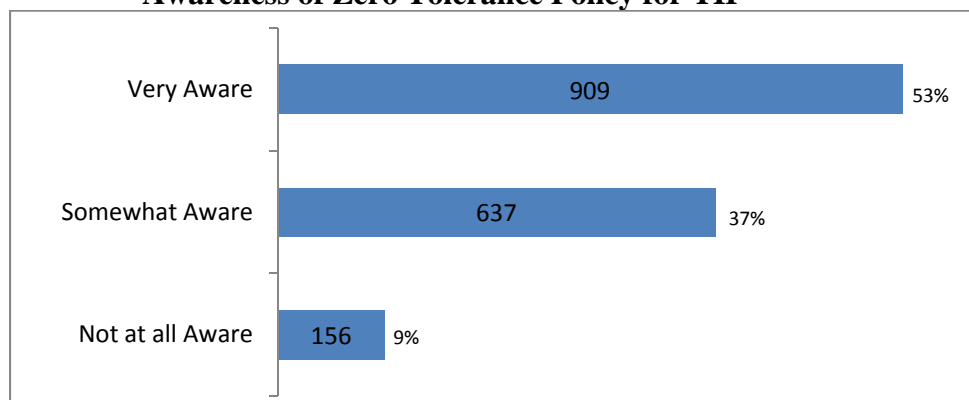
Lack of Awareness of TIP in the Asia-Pacific Region and EAP

The Department's employees in the Asia-Pacific region and at EAP are not uniformly aware of what constitutes a TIP activity, the penalties for TIP violations, where to report allegations of TIP violations, and that the U.S. Government's zero tolerance policy regarding TIP applies to Department contractors. We made this determination based on our review of responses to the General Awareness Survey, which was distributed to all post locations in the Asia-Pacific region and to EAP personnel located in the United States, and on interviews and discussions with Asia-Pacific region employees during the audit.

As described in Appendix B, the survey of Department employees in the Asia-Pacific region and at EAP was conducted to assess whether the employees were aware of issues related to TIP. The survey was administered over the Department of State Intranet – OpenNet, and 1,702 responses were received from Department personnel.

The survey found that 46 percent of the respondents reported being only "Somewhat Aware" or "Not at all Aware" of the zero tolerance policy regarding all forms of human trafficking, as shown in Figure 1.

**Figure 1. Results of Survey of Department Asia-Pacific Region Employees:
Awareness of Zero Tolerance Policy for TIP**

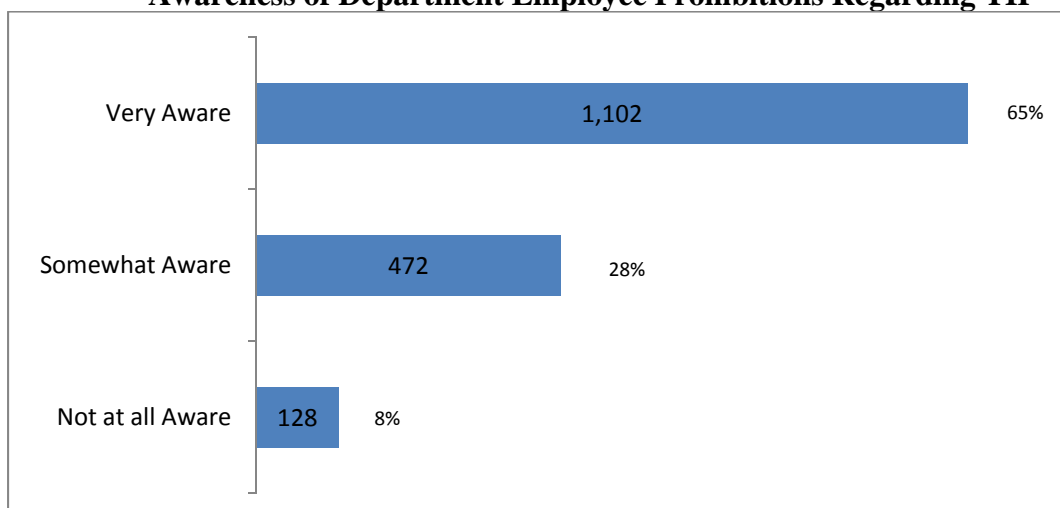


Supplementary comments were received from individuals responding to the survey stating that they were not aware of the Department’s policy in this area. One particular comment summarized the general level of awareness of the U.S. Government’s policy regarding TIP among many EAP employees:

Before taking this survey, I would have assumed that the U.S. Government would have a zero tolerance policy toward trafficking in persons, but I was not specifically aware of the policy. (Source: A Foreign Service Officer (FSO) with less than 1 year of experience in the Department.)

When asked, in Question 2, if they were aware that the Department prohibited its personnel from any form of involvement with human trafficking, including the procurement of commercial sex acts whether or not such activity is legal in the country in which it was procured, only 65 percent of the respondents reported that they were “Very Aware.” An additional 28 percent of respondents considered themselves to be “Somewhat Aware” of this policy, indicating uncertainty or a lack of knowledge of some elements of this policy, as shown in Figure 2.

**Figure 2. Results of Survey of Department Asia-Pacific Region Employees:
Awareness of Department Employee Prohibitions Regarding TIP**



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In response to Question 2, an FSO with more than 10 years of experience in the Department made the following comment indicating his level of awareness with the U.S. Government's policy:

It has not been clear that Department regulations prohibit engaging in commercial sex acts. This should be made clearer as well as where to report suspected violations of trafficking in persons, etc.

The Department Has Not Established a Formal TIP Policy

A lack of awareness of TIP issues has occurred among employees because the Department has not established and communicated a formal TIP policy to employees that includes the definitions of TIP activity and mechanisms for reporting violations of TIP policy. The FAM and related FAHs encompass the Department's organizational and functional policies and its standards and procedures; however, the FAM does not have a specific policy that informs employees of their responsibilities in respect to understanding and reporting TIP violations.

We reviewed Department cables and other communications to employees to understand how Department policy was being communicated in the absence of a formal FAM policy on TIP. We found that the Department has taken actions to communicate the Department's prohibition against the procurement of commercial sex acts and to educate its employees on TIP issues. Communication of this policy has been included in documentation as follows:

- 3 FAM 4138, "Standards of Conduct," discusses actions that may constitute grounds for taking disciplinary or separation action against an employee. Grounds specified in the FAM include "disgraceful conduct." Also, FAM 4139.14 describes in more detail "notoriously disgraceful conduct," which includes the frequenting of prostitutes.
- 3 FAM 8612.2, "U.S. Government Employees Employing Domestic Staff Overseas," addresses standards of treatment for domestic staff by employees, their dependents, and members of their households.
- The cable ALDAC 062864, dated June 2008, discussed the Department's policy on the solicitation of prostitutes.
- The cable ALDAC 00014155, dated February 2008, contained guidelines for implementing the unified policy on HIV/AIDS and TIP.

In addition, the Bureau of Overseas Buildings Operations (OBO) issued a bulletin on November 21, 2007, regarding the treatment of construction workers on site locations. The bulletin provided guidance to its field staff to help ensure its contractors treat their workers fairly and humanely, both on and off site, and to minimize the likelihood that the field staff may inadvertently participate in human trafficking activities.

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We did not find these communications to be effective in communicating the U.S. Government's policy on TIP for the following reason: the code of conduct references in the FAM, although useful, are not specific to TIP policy and do not fully incorporate TIP issues into the work and culture of the Department, as intended by the Secretary. Moreover, the issuance of guidance in the form of ALDACs,³ which constituted the majority of communications to employees on TIP, is of questionable effectiveness, since such communications are limited in validity to 30 days.⁴

We also assessed the extent to which post locations in the Asia-Pacific region had established local policies and procedures to implement the U.S. Government's policy on TIP. This was performed through a Request for Information to all EAP post locations regarding the following:

- The posts' local policies and procedures to communicate and implement the zero tolerance policy regarding TIP.
- Training programs provided at post on the subject of TIP or human trafficking.
- Details on any suspected TIP activities reported at post locations.
- Information related to contracting policies and procedures with respect to FAR clause 52.222-50.

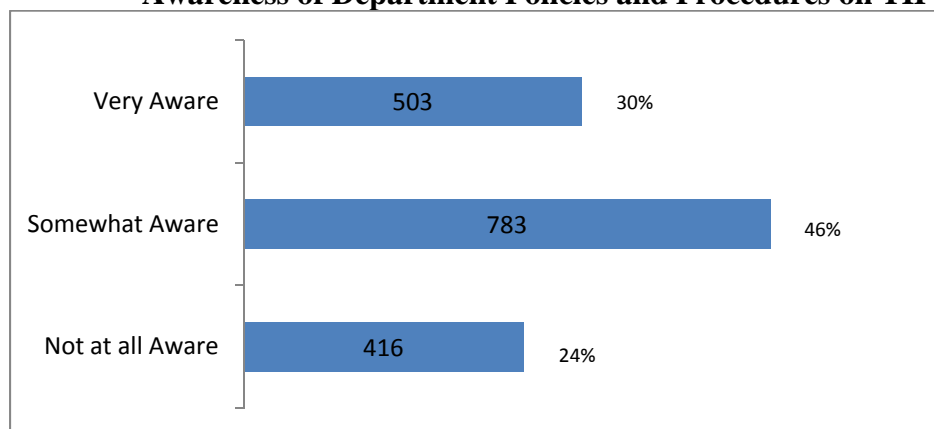
We found, except for the U.S. embassies in Australia, Thailand, and Indonesia, that general guidance on TIP issues was rarely issued by Asia-Pacific region post locations to post personnel.

Only 30 percent of the survey respondents reported being "Very Aware" of policies and procedures in effect at EAP or at post locations that relate to the awareness, prevention, and reporting of TIP violations. Also, 24 percent of the respondents reported that they were "Not at All Aware" of policies and procedures, as shown in Figure 3.

³ An ALDAC is an acronym for All Diplomatic and Consular Posts and refers to a telegram (cable) intended for worldwide dissemination.

⁴ Per 2 FAM 1113.1(3), "Program Offices," program offices are responsible for ensuring that "organizational, policy, or procedural changes issued by ALDACS or Department Notices (see 2 FAM 1115.2) are incorporated into the FAM within 30 days of the announcement of such changes."

**Figure 3. Results of Survey of Department Asia-Pacific Region Employees:
Awareness of Department Policies and Procedures on TIP**



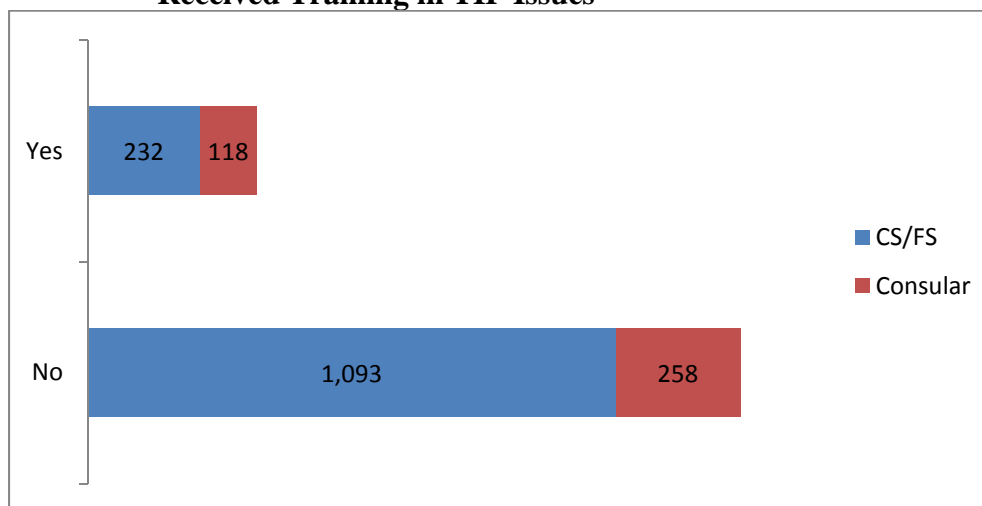
Although the Department has prohibited employees in 3 FAM 4139.14 from “notoriously disgraceful conduct,” which includes the frequenting of prostitutes, and has prohibited employees in 3 FAM 8610(a) from using forced domestic labor, the FAM does not address TIP in general, nor does it require employees to report suspected instances of TIP activity involving employees or contractors to the U.S. Government. In addition, an undated document entitled “A Guide to Ethical Conduct for Employees in the United States and Abroad” does not mention TIP in any manner that informs Department employees of the U.S. Government’s zero tolerance policy regarding TIP, the prohibition against involvement in acts of trafficking in persons, what constitutes TIP activity, the penalties for violations of the TIP policy, where to report possible violations, the prohibition against the procurement of commercial sex acts, and the fact that the U.S. Government’s zero tolerance policy regarding TIP also applies to the Department’s civilian contractors. According to the General Awareness Survey, 734 (43 percent) of 1,702 Department employees would not know where to report a TIP violation.

Lack of Training on TIP Issues

The lack of training on TIP issues has also contributed to the lack of awareness among Department personnel about TIP. Although Department personnel within the Bureau of Consular Affairs are required to complete Foreign Service Institute-sponsored TIP training, not all Department personnel are required to do so, even though NSPD-22 directs Departments and agencies to educate, as appropriate, personnel and contract employees on assignment or official travel abroad about TIP.

Our survey revealed that 1,351 (79 percent) of 1,701 Department employees who responded had not received training related to the awareness, prevention, or reporting of TIP violations. The number of respondents to our survey indicating they had received training on TIP issues is summarized in Figure 4. The table distinguishes between Civil Service and Foreign Service (CS/FS) employees responding and Bureau of Consular Affairs (CA) employees who reported.

**Figure 4. Results of Survey of Department Asia-Pacific Region Employees:
Received Training in TIP Issues**



Training on TIP issues is required for CA personnel in the form of a 1- to 2-hour on-line course. However, over two thirds of (258 of 376) CA respondents indicated that they had not received any training related to the awareness, prevention, or reporting of TIP violations.

TIP Violations May Not Be Detected or Reported

A lack of awareness of the U.S. Government's policy on TIP increases the possibility that violations may not be detected or reported. The results from the General Awareness Survey revealed that 290 Department employees (17 percent of those responding) were aware of possible violations of the U.S. Government's policy regarding TIP (including the procurement of commercial sex acts) on the part of Department employees, contractors, or contractor employees. (The countries in which General Awareness Survey respondents reported one or more violations pertaining to TIP are shown in Table 1.) However, only one TIP allegation had been reported to OIG's Office of Investigations.⁵

The Department has not issued any guidance to its employees in the FAM or the FAH on how to report possible TIP violations they may be aware of. Bureau of Diplomatic Security (DS) officials stated that guidance had been issued regarding the reporting and investigation of suspected TIP violations involving the issuance of visas and passports and the use of domestic help. However, DS had not issued guidance on reporting potential TIP violations involving Department employees or contractors.

⁵ The General Awareness Survey data pertaining to the possible TIP violations shown in Table 1 was referred to the Department's Office of Inspector General, Office of Investigations.

Table 1. Survey Respondents Reporting One or More Violations *

Country	Violations	%
China	37	13%
Korea	35	12%
Vietnam	32	11%
Japan	31	11%
Indonesia	30	10%
Thailand	28	10%
Taiwan	20	7%
Philippines	18	6%
Laos	13	4%
Cambodia	12	4%
Burma	8	3%
Fiji	6	2%
Singapore	6	2%
Australia	2	1%
Hong Kong	2	1%
Malaysia	2	1%
EAP/Washington	2	1%
Other	2	1%
Brunei	1	0%
Mongolia	1	0%
Papua New Guinea	1	0%
Timor-Leste	1	0%
Total	290	100%

* Responses to the General Awareness Survey were not received from French Polynesia, Micronesia, Palau, Samoa, and Solomon Islands. The Marshall Islands and New Zealand did not report violations.

The TVPRA of 2005 extended U.S. criminal jurisdiction to Federal Government employees and contractors for trafficking offenses committed abroad. DS officials stated it would be appropriate for TIP violations to be reported initially to the Regional Security Officer at post to ensure the integrity of evidence and have the ability to prosecute and obtain criminal convictions. However, A/OPE officials stated that all contractor violations should be reported to the contracting officers. Also, an official from OIG's Office of Investigations stated that allegations of TIP violations should be reported to the OIG hotline.

DS officials stated that it was unclear whether their authority extended to the investigation and followup of violations of FAR clause 52.222-50. However, they believed that initial reporting should be directed to the Regional Security Officer at post and that possible violations should be referred to other organizations (for example, OIG's Office of Investigations, A/OPE, or G/TIP) depending on the nature of the information reported.

The lack of an effective and clear mechanism for reporting TIP violations means that the Department may not know the actual number of TIP violations that may be

occurring, and employees and contractors may therefore not be held accountable for TIP violations.

Recommendation 1. We recommend that the Office to Monitor and Combat Trafficking in Persons include, in the *Foreign Affairs Manual*, the U.S. Government policy regarding trafficking in persons (TIP) to include the definition of TIP activity and information on the prohibition against involvement in acts of TIP for Department of State personnel and contractors, the associated penalties for violations, and the mechanism to report such violations.

Management Response: G/TIP "generally concurs" with the recommendation and suggested "the formation of an internal department working group on TIP to amend the FAM, with M [the Under Secretary for Management] and G/TIP as co-chairs."

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OIG Analysis: OIG considers the recommendation resolved, pending receipt and review of documentation showing that the *Foreign Affairs Manual* has been amended to include a Department policy on trafficking in persons.

Recommendation 2. We recommend that the Office to Monitor and Combat Trafficking in Persons, in consultation with the Office of the Legal Adviser and the Director General of Human Resources, develop and include a trafficking in persons policy in the Department of State Standards of Conduct.

Management Response: G/TIP “generally concurs” with the recommendation, stating that the United States Agency for International Development “recently put in place a revised standard of conduct relating to TIP which may be a good starting point for Department discussions on this matter.”

OIG Analysis: OIG considers the recommendation resolved, pending receipt and review of documentation showing that the Department of State Standards of Conduct contains a policy on trafficking in persons.

Recommendation 3. We recommend that the Office to Monitor and Combat Trafficking in Persons, in consultation with the Department of State’s (Department) Office of Inspector General, Office of Investigations, the Bureau of Diplomatic Security, the Office of the Procurement Executive, and the Under Secretary for Management, designate an office within the Department responsible for establishing and implementing an effective mechanism for employees to report trafficking in persons violations.

Management Response: G/TIP “generally concurs” with the recommendation, stating that “there needs to be a clear POC [point of contact] in the Department for reporting TIP violations” but believes the action office should be the Under Secretary for Management.

OIG Analysis: Although G/TIP is the best office to lead action for this recommendation, as it has been charged with coordinating the United States fight against human trafficking both internationally and across the U.S. Government, including pursuing policies that uphold TIP goals, we agree that the Under Secretary for Management should be consulted during the process. OIG considers the recommendation resolved, pending receipt and review of documentation showing that an effective mechanism for employees to report trafficking in persons violations has been implemented.

Recommendation 4. We recommend that the Office to Monitor and Combat Trafficking in Persons, in consultation with the Foreign Service Institute and the Director General of Human Resources, expand trafficking in persons (TIP) training to all Department of State employees to include increasing the awareness of the U.S. Government’s zero tolerance policy toward TIP and reducing the incidence of TIP activity involving contractor personnel and employees who represent the United States abroad.

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Management Response: G/TIP “generally concurs” with the recommendation, stating that the Department is already working within an interagency TIP policy group to develop “an online General Awareness training that would be made available to all USG [U.S. Government] personnel, which could be used to help implement this recommendation.”

OIG Analysis: OIG considers the recommendation resolved, pending receipt and review of documentation showing that TIP training has been expanded to all Department personnel.

Finding B. Contractors Are Not Complying With Requirements of Federal Acquisition Regulation Clause 52.222-50

Contractors in the Asia-Pacific region were not aware of and therefore did not comply with the obligations under FAR clause 52.222-50. Specifically, contractors were not notifying their employees of the U.S. Government’s policy regarding TIP and the actions that would be taken against them for violations of the policy, nor were they including the TIP clause in their subcontracts. Contractor officials stated that they were not aware of their obligations because the FAR clause is included only by reference in the contracts and that they had not read the full text of the clause. Also, the clause was not included in any form (reference or full text) in 27 percent of the contracts we reviewed, thereby completely failing to alert contractors of their obligations with respect to TIP. Further, even when the clause was contained in contracts, Department contracting officials did not monitor contractor compliance with the clause. As a result, Department contractors, subcontractors, and their respective employees may not be aware of the U.S. Government’s zero tolerance policy regarding trafficking in persons.

FAR Requirement

Contractors with Department contracts are obligated to abide by all applicable FAR or Department acquisition regulation clauses contained in their contracts. FAR clause 52.222-50 is a mandatory clause that must be included in all Federal contracts above the micro-purchase level. This clause communicates the U.S. Government’s zero tolerance policy regarding trafficking in persons and establishes contractor obligations to notify employees of the U.S. Government’s zero tolerance policy regarding TIP and the actions that will be taken against them for violations of this policy; include the substance of FAR clause 52.222-50 in all subcontracts, including the requirement that subcontractors should include the substance of the clause in their subcontracts as well; take appropriate action against employees or subcontractors who violate the policy; and notify the contracting officer immediately of any information it receives from any source, including host country law enforcement, alleging that a contractor employee, subcontractor, or subcontractor’s employee has engaged in conduct that violates this policy and any actions taken by the company against contractor employees, subcontractors, or subcontractors’ employees pursuant to this clause. (The full text of this clause is in Appendix C.)

Contractor Compliance - Site Visits

We visited 24 Department contractors located in three countries within the Asia-Pacific region whose contracts included the applicable FAR clause 52.222-50. Of the 24 contractors visited, we found that 20 contractors (83 percent) had not notified their employees of the U.S. Government's policy regarding TIP and that 22 contractors (92 percent) had not informed their employees of the actions that would be taken against them for violations of the policy. Six contractors had hired subcontractors for the performance of services. None of these six contractors had included the substance of FAR clause 52.222-50, as required, in their subcontracts.

Except for one company in Thailand, all contractors with whom we met told us they were substantially in compliance with the intent of the FAR clause and were not involved in any forms of human trafficking. Representatives of the excepted company stated that they felt they were not in technical compliance as they were not aware of the clause in the contract and had not notified their employees. In addition, another large company in the Philippines also was not aware of the FAR clause but believed the company was substantially in compliance with the clause because of its business ethics policies.

Contractor Compliance via Request for Information From Contracting Officers

In addition to the 24 contracts examined at the three overseas posts visited, we also reviewed 69 contracts in the Asia-Pacific region that contained FAR clause 52.222-50 to determine whether the obligations with the clause were fulfilled. Of these 69 contracts, the following results were reported by 63 contractors:

- Twenty-five contractors (40 percent) had not notified their employees of the U.S. Government's TIP policy or of the actions that would be taken for violations of the policy.
- Seventeen contractors reported they had hired subcontractors. Only 10 (59 percent) of these 17 contractors had included the substance of FAR clause 52.222-50 in their subcontracting agreements, as required by the FAR clause.

Lack of Awareness

Because the full text of the clause was not included in contracts, the contractors were not aware of their obligations under the FAR clause, which they attributed to their noncompliance. Current procurement procedures provide for FAR clause 52.222-50 to be included in solicitations and contracts by reference only (that is, showing the heading of the clause and the date with no additional details). This procedure requires contractors to visit an Internet Web site or refer to a printed version of the FAR in order to obtain the full text of the clause. Therefore, contractor officials may not be aware of the contents of the clause and specific actions they are required to take. For example, contractor officials stated they had read the heading but did not obtain the full text of the FAR clause, as they did not believe their respective company had any involvement with trafficking in persons. As a result, they were not aware of specific obligations in their contract to notify their employees of the U.S. Government's TIP policy, the prohibition

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against the procurement of commercial sex acts, and the requirement to report possible violations to their contracting officer.

In Thailand, we met with officials from a major international law firm providing services to the U.S. embassy. A partner directly responsible for the work informed us that he was unaware of FAR clause 52.222-50 and its provisions prior to our request for a meeting. He stated that he was actually surprised to learn that there were actions required of his firm in order to be in full compliance with the FAR clause.

Missing or Incorrect FAR Clause Included in Contracts

We reviewed 41 contracts in the Asia-Pacific region to assess whether FAR clause 52.222-50 had been included in the contracts in accordance with procurement regulations. Contracts with a place of performance at locations in the Asia-Pacific region were selected for review from the Federal Procurement Data System (FPDS) for FYs 2009 and 2010. Although required, FAR clause 52.222-50 was either omitted or was improperly included in 19 (46 percent) of the 41 contracts reviewed, thereby causing such contractors to be unaware of its provisions. For the 19 contracts, we found that 11 contracts did not contain the clause and were awarded after April 19, 2006 (the date after which the FAR clause became mandatory), and that eight contracts did not contain the correct version of the clause based on the contract award date and FAR in effect at that time.

Contracting officers in EAP and officials from the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management (A/LM/AQM), provided various reasons for omitting the FAR clause or including it in an incorrect form as follows: The contract template used to prepare the contract did not contain any reference to the FAR clause, the accompanying instructions for the template did not identify the FAR clause as being mandatory, and the erroneous belief that the FAR clause was not required to be included until February 2009. In other cases, the contracting officer with responsibility for the original contract award was no longer either in A/LM/AQM or at the post location.

Monitoring Compliance

As of February 2011, Department procurement policies did not require contracting officers and contracting officer's representatives to verify that contractors are complying with their obligations under FAR clause 52.222-50. In addition, Department contracting officers and contracting officer's representatives in the Asia-Pacific region confirmed to us during meetings that they were not verifying contractor compliance with obligations contained in FAR clause 52.222-50.

Department contractors, subcontractors, and subcontractor employees may not be aware of the U.S. Government's zero tolerance policy regarding TIP. When contractors do not notify their employees of the policy regarding TIP and do not include the substance of the clause in subcontracting agreements, there is a missed opportunity to communicate the U.S. policy more widely in the Asia-Pacific region, that is, through all contractors, subcontractors, and subcontractor employees doing business with the U.S. Government.

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For contractors in the Asia-Pacific region, if FAR clause 52.222-50 is omitted from a contract, the U.S. Government may not be able to hold contractors responsible for provisions of the clause and enforce penalties for TIP violations. This is different from situations involving U.S.-based contractors. In the United States, if the FAR requires that a clause that addresses an important topic be included in a Government contract and if the Government's acquisition personnel omit the clause without authorization, the agency boards of contract appeals and the Federal courts may interpret the contract as though the clause were, in fact, included. This is done pursuant to a legal doctrine known as the "Christian Doctrine."⁶ The principle underlying the Christian Doctrine is that mandatory contract clauses reflecting core procurement policy are incorporated into Government prime contracts by operation of law, even if the clauses at issue were intentionally negotiated out of the contract. It is not clear that this doctrine would apply in countries and legal systems outside the United States. As a result, the U.S. Government is not well-positioned to hold the contractor responsible for complying with the contract provisions related to TIP.

Finally, contractor employees may be aware of, but are not reporting, contractor and contractor employee violations of the U.S. Government's TIP policy.

Review of Findings and Preliminary Recommendations

On March 15, 2011, we met with officials from A/OPE to discuss the need for enhanced internal controls over the procurement process to ensure that mandatory FAR clause 52.222-50 was included in all contracts. We also discussed that, similar to other FAR clauses, there was no specific requirement for contracting officers or contracting officer's representatives to monitor contractor compliance with FAR clause 52.222-50. We also communicated the feedback received from contracting officers and contracting officer's representatives, as well as from the 24 contractors visited, as part of the compliance testing—specifically, that the majority of the contractors with whom we met were not aware of the FAR clause and the actions required of the company in order to be in compliance with the clause. We informed A/OPE of contractors' requests that the full text of the FAR clause should be included in contracts. We also discussed a potential method of monitoring contractor compliance with FAR clause 52.222-50.

Subsequent Management Actions

On March 24, 2011, A/OPE issued Procurement Information Bulletin (PIB) No. 2011-09, "Combating Trafficking in Persons," to provide TIP guidance to contracting officers and contracting officer's representatives. This publication requires contracting officers and contracting officer's representatives to ensure that all solicitations and contracts over the micro-purchase threshold (\$3,000) contain FAR clause 52.222-50, to provide the clause in full text to ensure that contractors understand clause requirements if needed, and to provide guidance on how contracting officers and contracting officer's representatives can monitor TIP compliance.

Since PIB No. 2011-09 addresses the causes for Finding B, we are not making any recommendations in this regard.

⁶ See *G.L. Christian & Assocs. v. U. S.*, 312 F.2d 418, 160 Ct. Cl. 1 (1963).

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Other Matters

Contractor representatives told us it would be helpful if the U.S. Government could provide additional materials to help them understand and comply with their obligations in FAR clause 52.222-50. This could include, for example, an overview of the contractor's responsibilities under FAR clause 52.222-50 and a sample notification that could be provided to employees.

During the meeting with A/OPE officials on March 15, 2011, we discussed the benefit of providing contractors information on what constitutes TIP activity, how and where to report suspected TIP violations, how to document notification of employees on the U.S. Government's zero tolerance policy, and on other topics.

One concept communicated to us by contractors was the following: If the clause and policy area were important to the U.S. Government, the Government could do a better job of explaining contractor requirements in this area.

During our meeting with the Director of G/TIP on March 21, 2011, we also discussed the concept of providing contractors with TIP awareness materials. Therefore, although not required by the TVPRA or NSPD-22, we suggest that G/TIP, in consultation with A/OPE, develop and distribute guidance to contractors to help them comply with their obligations under FAR clause 52.222-50.

List of Recommendations

Recommendation 1. We recommend that the Office to Monitor and Combat Trafficking in Persons include, in the *Foreign Affairs Manual*, the U.S. Government policy regarding trafficking in persons (TIP) to include the definition of TIP activity and information on the prohibition against involvement in acts of TIP for Department of State personnel and contractors, the associated penalties for violations, and the mechanism to report such violations.

Recommendation 2. We recommend that the Office to Monitor and Combat Trafficking in Persons, in consultation with the Office of the Legal Adviser and the Director General of Human Resources, develop and include a trafficking in persons policy in the Department of State Standards of Conduct.

Recommendation 3. We recommend that the Office to Monitor and Combat Trafficking in Persons, in consultation with the Department of State's (Department) Office of Inspector General, Office of Investigations, the Bureau of Diplomatic Security, the Office of the Procurement Executive, and the Under Secretary for Management, designate an office within the Department responsible for establishing and implementing an effective mechanism for employees to report trafficking in persons violations.

Recommendation 4. We recommend that the Office to Monitor and Combat Trafficking in Persons, in consultation with the Foreign Service Institute and the Director General of Human Resources, expand trafficking in persons (TIP) training to all Department of State employees to include increasing the awareness of the U.S. Government's zero tolerance policy toward TIP and reducing the incidence of TIP activity involving contractor personnel and employees who represent the United States abroad.

Scope and Methodology

Scope

Our audit covered Department of State-awarded contracts with a place of performance in the Asia-Pacific region for FYs 2009, 2010, and 2011.¹ Our audit also included a review of policies and procedures at Department headquarters and Bureau of East Asian and Pacific Affairs (EAP) post locations that were designed to prevent the use of forced labor on contracts and reduce the incidence of trafficking in persons (TIP) activity involving Department employees, contractors, and their employees.

Methodology

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- Interviewed Department personnel in headquarters and EAP with responsibility for or involvement in establishing TIP-related policies and procedures, including the Director of the Department's Office to Monitor and Combat Trafficking in Persons (G/TIP).
- Reviewed documentation, including *Foreign Affairs Manual* (FAM) and *Foreign Affairs Handbook* (FAH) policy manuals, cables, emails, and other written communications, relating to policies and procedures established to prevent the use of forced labor on contracts and reduce the incidence of TIP activity involving Department employees and contractors.
- Made inquiries of officials in embassies and consulates in the Asia-Pacific region regarding policies and procedures in place with respect to TIP, as described in the section "Request for Information to Post Locations" in this appendix.
- Performed site visits and interviewed officials in the U.S. embassies in Thailand, the Philippines, and Indonesia regarding policies and procedures in place to prevent the use of forced labor on contracts and reduce the incidence of TIP activity involving Department employees or contractors, as described in the section "Embassy Site Visits" in this appendix.
- Designed and implemented the General Awareness Survey to obtain feedback from Department employees in the Asia-Pacific region and at EAP, as described further in Appendix B.

¹ The Office of Inspector General selected the Asia-Pacific region as an area satisfying the "heightened risk" standard required by the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008.

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- Reviewed 41 contracts between the Department and contractors with a place of performance in the Asia-Pacific region, as described in “FAR Clause Testing” in this appendix.
- Reviewed a sample of 87 Department contractors to assess the contractors’ compliance with obligations in their respective contracts under FAR Clause 52.222-50, “Combating trafficking In Persons.” This testing was performed in two parts:
 - Site visits and in-person meetings with representatives of 24 contractors in Thailand, the Philippines, and Indonesia.
 - Email inquiries to 63 additional contractors in the Asia-Pacific region with a place of performance in countries other than Thailand, the Philippines, and Indonesia.

Further information is included in the section “Contractor Compliance Testing” in this appendix.

Request for Information to Post Locations

We made inquiries to embassies and consulates in the Asia-Pacific region regarding the following:

- Policies and procedures in place at the post location to prevent the use of trafficked labor on U.S. Government contracts and reduce the incidence of TIP involving Department employees and contractors.
- Training provided to Department employees on TIP.
- TIP violations reported to the post involving Department employees or contractor companies.
- Procurement policies and procedures to address Department and contractor obligations with respect to FAR clause 52.222-50.

Embassy Site Visits

We met with officials in the U.S. embassies in Thailand, the Philippines, and Indonesia to confirm information received in the Request for Information and identify activities unique to each embassy with respect to TIP. Officials interviewed included contracting officers, contracting officer’s representatives, general service officers, management counselors, human resources officers, deputy chiefs of mission, and regional security officers.

We also spoke with the TIP officer in each embassy regarding the overall environment in each country with respect to TIP. The information obtained provided background and context for the site visits to 24 contractors, as described in the section “Contractor Compliance Testing” in this appendix.

FAR Clause Testing

We reviewed 41 contracts between the Department and contractors in the Asia-Pacific region to assess whether FAR clause 52.222-50 was included as required. For contracts selected, we reviewed a copy of the contract to determine the following:

- Whether any version² of FAR clause 52.222-50 was included in the contract (either in full text or by reference in the original contract or subsequent modification signed up to the date of our review).
- For contracts with the FAR clause included, whether the clause was the correct version of the FAR clause based on the contract award date and the FAR clause then in effect.

Contracts were selected for review from information in the Federal Procurement Data System (FPDS). Contracts were included in the population for possible review if they indicated a place of performance in a country in the Asia-Pacific region and showed an action obligation in either FY 2009 or FY 2010. Our review did not include any grants or cooperative agreements because they were outside of the scope of our audit. The FPDS does not contain information on the number of contractors or contracts that are currently active in the Asia-Pacific region. As a result, we do not provide any comment as to the number of contracts that were subject to possible review.

Contracts were chosen for review on a judgmental basis and included a sample of contracts with a heightened risk of TIP based on the nature of services being provided and other factors. For purposes of this audit, contracts with a heightened risk of trafficking were deemed to be those that met either or both of the following conditions:

- Contracts pertain to certain industries, such as construction, guard services, or other service industries.
- Contract services were generally provided by low-skilled or lower paid workers.

Contractor Compliance Testing

We reviewed a sample of 87 contractors to assess their compliance with the obligations in their contract under FAR clause 52.222-50. The review was performed via (a) site visits and in-person meetings with representatives of 24 contractors in Thailand, the Philippines, and Indonesia and (b) inquiries via email to an additional 63 Asia-Pacific region contractors outside Thailand, the Philippines, and Indonesia (that is, contractors performing services for the Department in Asia-Pacific countries other than Thailand, the Philippines, and Indonesia). The email inquiries were facilitated by Department procurement staff. We did not communicate directly with contractors for this element of the testing.

² Any version could include FAR clause 52.222-50 or alternate clauses in effect as of April 2006 (initial interim rule), August 2007 (second interim rule), or February 2009 (final rule).

(a) Site Visits and Meetings With Contractors

We made eight site visits to contractors in each of three countries—Thailand, the Philippines, and Indonesia—for a total of 24 site visits. During our visits, we made inquiries to contractor personnel regarding contractor compliance with obligations in their contract under FAR clause 52.222-50. The representatives interviewed at each contractor included at least one manager with responsibility for oversight and/or administration of the contract, staff involved with performance of the contract, and/or general management of the contractor.

Inquiries were made in areas that included the following:

- Whether the contractor notified its employees of the U.S. Government's zero tolerance policy and the penalties/sanctions that would be applied for violations.
- Whether any of the contractor's employees had reported to the contractor any suspected instances of TIP.
- Whether the company had informed its contracting officer of any information it received from any source (including host country law enforcement) alleging that a contractor employee, subcontractor, or subcontractor employee had engaged in TIP activity.
- Whether the company had developed written policies/procedures to prevent and/or detect instances of TIP.
- Whether the company used subcontractors in the performance of the contract and, if so, whether the subcontracting agreement included the flow down of FAR clause 52.222-50, as required by the company's contract.

Contractors were selected for site visits based on information in FPDS using data for FYs 2010 and 2011 and were limited to those with FAR clause 52.222-50 in their contracts. We relied on assistance from post General Service Officers to select and coordinate meetings with contractors in their respective countries. To be eligible for a site visit, the contractor company had to (a) have FAR clause 52.222-50 in its contract, (b) agree to meet with the audit team, (c) have employees actively working on the contract available to interview, and (d) be located within an acceptable commuting distance from the embassy. Contracts were reviewed by the audit team prior to conducting the on-site visits.

(b) Contractor Compliance Testing via Request for Information From Contracting Officers

With assistance of staff from the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management (A/LM/AQM), and EAP procurement staff, we made inquiries of 63 additional contractors in the Asia-Pacific region to assess their compliance with obligations in FAR clause 52.222-50. The inquiries made were similar to those listed for contractor site visits. However, for this testing, we emailed our questions to contracting officers and contracting officer's representatives at post who obtained the information requested for the contractors selected on our behalf. The targeted population for this audit step was those contractors in the Asia-Pacific region that had FAR clause 52.222-50 in their contracts.

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Contracts were selected for compliance testing via email from information in FPDS using data for FYs 2010 and 2011. The population of contracts subject to contractor compliance testing via email was limited to contracts with a place of performance in Asia-Pacific countries other than Thailand, the Philippines, and Indonesia (where compliance was assessed through site visits and meetings with contractor representatives).

Our methodology for selecting contractors subject to compliance testing under this audit step was as follows: We obtained a report from FPDS showing Action Obligations in FYs 2010 and 2011 to the date of our review and that had a place of performance in an Asia-Pacific region country. We chose the 2010 and 2011 fiscal years to identify contracts that were more likely to have FAR clause 52.222-50 in their contract and to be active as of the date of our review, which would increase the response rate. We chose items for possible testing that had the following attributes:

- An NAICS³ code of 23xxx, 56xxx, 71xxx and 72xxx. These NAICS codes included contracts related to construction contracts, security guard and patrol services, and hotels and that potentially had an elevated risk of TIP activity.
- A place of performance in a country other than Thailand, the Philippines, and Indonesia.
- An Action Obligation value greater than \$50,000.

Contracts were chosen on a judgmental basis and included a sample of contracts with a heightened risk of TIP based on the nature of services being provided and other factors.

Contractors selected for compliance testing via request for information from contracting officers were located in the following Asia-Pacific countries: Australia, Brunei, Burma, Cambodia, China, East Timor, Fiji, Japan, Laos, Malaysia, Micronesia, Mongolia, New Zealand, Papua New Guinea, Samoa, Singapore, South Korea, Taiwan, and Vietnam. The audit team met with a sample of contractors directly in Thailand, the Philippines, and Indonesia to assess compliance with FAR 52.222-50 and, as a result, did not include contractors from those countries in this audit step.

FPDS does not maintain information on the number of active contractors or active contracts in the Asia-Pacific region at any one point in time. In addition, many contractors are actively working in the Asia-Pacific region without obligations under FAR clause 52.222-50 as a result of contracts signed prior to the effective date of the FAR or an omission by the contracting officers in including the required clause in their contracts.

The methodology used to pick the sample also does not provide any indication as to the number of active contractors in the Asia-Pacific region for the following reasons: First, FPDS does not maintain information on the number of active contractors or active contracts in the Asia-Pacific region at any one point in time, and our sample was chosen from information in this system. Second, we limited our selection to contracts showing an Action Obligation in either FY 2010 or FY 2011. There are additional contractors active in the Asia-Pacific region with

³ North American Industry Classification System.

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contracts signed prior to these years. As a result, we provide no comment as to the number of the contractors in the Asia-Pacific region with FAR clause 52.222-50 in their contracts.

Summary of Procedures Performed

		Purpose of Procedure		
		Assess Compliance With Procurement Regulations	Determine if FAR Clause is Present in Any Form	Assess Contractor Compliance With Obligations in 52.222-50
Review of contracts for FAR clause	41	√	√	
Site visits and meetings with contractors	24		√	√
Contract compliance review via email	63		√	√

Work Related to Internal Controls

Our procedures included inquiries regarding internal control activities in place to prevent the use of forced labor in the performance of contracts and reduce the incidence of TIP activity involving Department employees and contractors in the Asia-Pacific region. Our recommendations with respect to additional internal control activities are reported herein.

Use of Computer-Processed Data

We relied on computer-processed data in FPDS to select contracts for FAR clause testing, site visits, and contractor compliance testing.

Our audit scope did not provide for validation of data in FPDS. However, we identified instances where data elements in FPDS were either incorrect or incomplete. For example, two contracts out of 50 contracts selected for FAR clause review listed an incorrect place of performance in FPDS. Many contracts listed in FPDS did not have an NAICS⁴ code or DUNS⁵ number, which prevented us from understanding the nature and/or type of service being provided under the contract. This affected our ability to identify contracts with a heightened risk of trafficking, as required under the WWTVPRA. Our observation regarding the data in FPDS was communicated to A/LM/AQM for further assessment and/or corrective action. Further inquiries were outside the scope of this audit.

⁴ NAICS was developed as the standard for use by Federal statistical agencies in classifying business establishments for the collection, analysis, and publication of statistical data related to the business economy of the United States.

⁵ The Data Universal Numbering System (DUNS) Number is a unique 9-digit identification sequence that provides unique identifiers of single business entities. The DUNS numbering system is a widely recognized standard for identifying businesses among thousands of companies, marketplaces, and regulatory entities. Companies worldwide use the DUNS Number to link information about suppliers, customers and trading partners, providing a more complete picture of the risk and opportunity in their business relationships.

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We believe that the issues identified with respect to data in FPDS did not affect the findings and recommendations in our report.

Other Information

We conducted our audit fieldwork from November 2010 through March 2011 in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit was not designed to detect instances of TIP involving Department personnel or contractors. Further, our report does not provide any opinion or assurance as to any individual contractor's compliance with relevant laws, regulations, and provisions in its contract. Our report also does not provide an opinion or any assurance on the adequacy of the Department's policies and procedures overall to comply with relevant laws and regulations and prevent TIP activity. Department management remains responsible for implementing policies, procedures, and controls necessary to comply with all laws, regulations, and policies applicable to its operations, including those pertaining to TIP.

We did not find evidence of any severe form of TIP involving Department employees or contractors or the use of forced labor in the performance of any contract. Information received through the General Awareness Survey regarding possible TIP activity involving Department employees and/or contractors was referred to OIG's Office of Investigations for further inquiry.

Our audit scope involved contracts in EAP and internal control activities at Department level and in EAP that were designed to prevent the use of forced labor on contracts and reduce the incidence of TIP activity among employees. We are unable to state, and therefore provide no comment on, whether our findings and recommendations apply to other Department bureaus and regions.

Prior OIG Reports

Performance Evaluation of Department of State Contracts to Monitor Vulnerability to Trafficking in Persons Violations in the Levant (MERO-I-11-07, March 2011). For 10 contracts evaluated at the U.S. embassies in Israel, Jordan, Lebanon, and Syria and at Consulate General Jerusalem, OIG found no direct evidence that contractors violated the provisions of the Trafficking Victims Protection Act of 2000 (TVPA) or FAR mandatory clause 52.222-50. Specifically, OIG found no evidence that contractors were engaged in sex trafficking or illicit activities related to involuntary servitude, peonage, debt bondage, or slavery as defined by U.S. law.

Performance Evaluation of PAE Operations and Maintenance Support for the Bureau of International Narcotics and Law Enforcement Affairs Counternarcotics Compounds in Afghanistan (MERO-I-11-02, Feb. 2011). OIG developed a questionnaire to determine whether PAE has been complying with the terms of FAR clause 52.222-50. OIG found that the FAR

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clause was added to a PAE task order in July 2009, 6 months after it had been in place. In structured interviews with third-country national, PAE employees, and guard force personnel at Kunduz, OIG also found no indication or evidence that PAE employees or guards had been subjected to illegal TIP. The OIG team found no evidence that PAE was recruiting or maintaining labor through the use of force, fraud, or coercion.

Performance Evaluation of Department of State Contracts to Assess Risk of Trafficking in Persons Violations in Four States in the Cooperation Council for the Arab States of the Gulf (MERO-I-11-06, Jan. 2011). The Middle East Regional Office (MERO) of the Office of Inspector General issued Report Number MERO-I-11-06 in January 2011, *Performance Evaluation of Department of State Contracts to Assess the Risk of Trafficking in Persons Violations in Four States in the Cooperation Council for the Arab States of the Gulf*. The objectives of the evaluation were (a) to determine whether Department-funded contractors and subcontractors are engaged, knowingly or unknowingly, in acts related to trafficking in persons and (2) to determine whether U.S. embassies are following Federal guidelines to effectively monitor Department-funded contractors and subcontractors for engagement in acts related to TIP. The performance evaluation found no evidence in Kuwait, Oman, Saudi Arabia, or the United Arab Emirates (U.A.E.) that Department-funded contractors were engaged in severe forms of TIP, solicitation of commercial sex acts, sex trafficking, or involuntary servitude as defined by Section 103 of the TVPA. OIG identified contractor practices indicating an increased risk of TIP as defined by the International Labor Organization at all four embassies in Kuwait, Oman, Saudi Arabia, and the U.A.E. and at the two consulates general in Saudi Arabia and the U.A.E.

PAE Operations and Maintenance Support at Embassy Kabul, Afghanistan (MERO-I-11-05, Dec. 2010). OIG found that the FAR clause was added to a PAE task order in July 2009, after it had been in place for 6 months. OIG developed a questionnaire to determine whether PAE has been complying with the terms of FAR clause 52.222-50. In structured interviews with third-country national PAE employees and guard force personnel at Kunduz, OIG found no indication or evidence that PAE employees or guards had been subjected to illegal TIP. The OIG team found no evidence that PAE was recruiting or maintaining labor through the use of force, fraud, or coercion.

The Bureau of Diplomatic Security Kabul Embassy Security Force (KESF), Performance Evaluation (MERO-A-10-11, Sept. 2010). OIG found that the KESF contract contains FAR clause 52.222-50 as required. The OIG team developed a questionnaire to determine whether AGNA is complying with the terms of the clause. In structured interviews with 69 KESF guards chosen at random, the OIG team found no evidence that AGNA was recruiting or maintaining labor through the use of force, fraud, or coercion.

The Bureau of DS Baghdad Embassy Security Force (BESF, Performance Audit (MERO-A-10-05, March 2010). OIG found that the BESF contract contains FAR clause 52.222-50 as required. The OIG team developed a questionnaire to determine whether Triple Canopy was complying with the terms of the FAR clause. In structured interviews with the BESF guards, the OIG team found no evidence that Triple Canopy was recruiting or maintaining labor through the use of force, fraud, or coercion.

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Report of Inspection, The Office to Monitor and Combat Trafficking in Persons (ISP-I-06-04, Nov. 2005). OIG found that, with strong backing from the Congress and the administration, the Office to Monitor and Combat Trafficking in Persons (G/TIP) has successfully made monitoring and combatting trafficking an important foreign policy goal. G/TIP and the regional bureaus are beginning to improve their working relations, and procedures are in place to resolve most major policy differences. Although the fight against trafficking for sexual purposes has dominated its agenda, G/TIP has also given appropriate attention to the trafficking involved in such areas as child labor, bonded labor, and involuntary servitude. OIG recommended that G/TIP use the Bureau Performance Plan to prioritize the many useful activities it could do and strengthen grants management.

General Awareness Survey

We performed a survey of Department of State (Department) employees in the Asia-Pacific region to assess whether they were aware of issues related to trafficking in persons.

The General Awareness Survey was performed with the assistance of Bureau of East Asian and Pacific Affairs (EAP) management and by using a Department Web-based survey tool. The survey was sent by EAP management to personnel in EAP in Washington, DC, and to all post locations in the Asia-Pacific region. At EAP post locations, the survey was provided to all personnel with active OpenNet accounts and therefore included a combination of Department employees (foreign and domestic), military personnel assigned to a post location, employees of tenant agencies, contractor personnel, and other personnel associated with the post location. All personnel responding were representatives of or associated with the U.S. Government and would be expected to have knowledge of, and abide by, the U.S. Government's policy regarding trafficking in persons (TIP).

A total of 1,929 individuals responded to this survey. Of that total, 1,702 individuals were Department employees out of a potential 7,212 Department respondents with active OpenNet accounts. This survey was sent to countries in the Asia-Pacific region and to EAP locations in the United States. We received responses from 22 of 27 countries surveyed, as well as responses from EAP locations in the United States. This survey was conducted from December 6, 2010, to January 19, 2011. The analysis in Finding A of this report is based on the responses from the 1,702 Department employees.

The survey as it was displayed after the respondent logged into an OpenNet account is shown as follows:

General Awareness Survey Regarding the U.S. Government's Zero Tolerance Policy Regarding Trafficking in Persons

The purpose of this survey is to assess the general awareness of personnel assigned to the East Asia and Pacific Affairs (EAP) Bureau with respect to:

- their awareness/knowledge of the U.S. Government's zero-tolerance policy regarding all forms of human trafficking;
- their knowledge of any trafficking in persons (TIPs)-related activity affecting contracting companies in the EAP region; and,
- their knowledge of specific policies/procedures related to TIPs.

FAR clause 52.222-50 is required to be included in all contracts between the U.S. Government and commercial companies. This FAR clause:

- (a) establishes and communicates the U.S. Government's zero tolerance policy regarding trafficking in persons to companies contracting with the U.S.

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Government;

(b) prohibits contractors and contractor employees from:

- Engaging in severe forms of trafficking in persons during the period of performance of the contract;
- Procuring a commercial sex act during the period of performance of the contract;
- Using forced labor in the performance of a contract.

(c) requires government contracting companies to notify their employees of (i) the U.S. Government's zero tolerance policy and (ii) the actions that would be taken for violation of this policy, and up to and including contract and/or employee termination;

(d) requires immediate notification of the contracting officer if any violations of the zero tolerance policy are suspected.

You will have an opportunity at the end of the survey to provide comments in a completely confidential manner. All responses will be treated in the strictest of confidence. Your response should not require more than 10-15 minutes to complete.

***=Required**

Name

Email

1) ***Prior to receiving this survey were you aware of the U.S. Government's zero tolerance policy regarding all forms of human trafficking, whether by government personnel, contracting companies, their employees or their subcontractors?**

Very aware

Somewhat Aware

Not at all Aware

2) ***Are you aware that the Department of State prohibits its personnel from any form of involvement with human trafficking; including the procurement of commercial sex acts whether or not such activity is legal in the country in which it is procured?**

Very Aware

Somewhat Aware

Not at all Aware

3) ***Are you aware of policies or procedures in effect in the EAP Bureau or at your Post location which relate to the awareness, prevention or reporting of TIPs violations?**

Very Aware

Somewhat Aware

Not at all Aware

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4) *Have you received any training related to the awareness, prevention or reporting of TIPs violations?

Yes

No

5) *Are you aware of any violations (which may include the procurement of commercial sex acts) of the U.S. Government's zero tolerance policy regarding trafficking in persons on the part of:

Department of State employees and personnel

Contractor companies, or their employees

Subcontractor companies, or their employees

Not Aware of Any Potential Violations

Comments:

6) *Are you aware of the Department's rules, regulations and policies concerning the employment of domestic staff, including those in "3 FAM 8612.2 U.S. Government Employees Employing Domestic Staff Abroad?"

Very Aware

Somewhat Aware

Not at all Aware

Not Applicable

7) *If you encounter a victim of human trafficking, or a violation of the U.S. Government's policies in this area, would you know where to report the violation?

Yes

No

Comments:

8) *Are you familiar with the Department of State's Annual Trafficking in Persons Report?

Very Aware

Somewhat Aware

Not at all Aware

9) *Prior to receipt of this survey, were you aware of the FAR clause with respect to trafficking in persons which is included in contracts between the U.S Government and commercial companies?

Very Aware

Somewhat Aware

Not at all Aware

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Please provide some information about yourself.

10) *What Bureau are you with? Use comment box if "Other".

EAP

Other Department of State

Not Department of State

Comments:

11) *Where is your duty location? If "Other" please identify in comments.

Australia	Brunei	Burma
Cambodia	China	Fiji
French Polynesia	Hong Kong	Indonesia
Japan	Korea	Laos
Malaysia	Marshall Islands	Micronesia
Mongolia	New Zealand	Palau
Papua New Guinea	Philippines	Samoa
Singapore	Solomon Islands	Taiwan
Thailand	Timor-Leste	Vietnam
EAP/Washington	Other	

Comments:

12) *What is your functional area at your Post location? If "Other", please provide detail in comments.

ECON	RSO	PAS
POL	CONS	GSO
FMO	CLO	FAC
IRM	HR	MGMT
Other		

Comments:

13) *Number of years of service with the Department of State?

Less than 1

1 - 3 years

3 - 5 years

5 - 10 years

More than 10 years

Comments:

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14) *What type of employee are you? If "Other", please explain.

Civil Service

Foreign Service

Host Country National

Other

Comments:

15) *Number of years assigned to Post locations in EAP region? If "Other", please explain.

Less than 1

1 - 3 years

3 - 5 years

5 - 10 years

More than 10 years

Other

Comments:

16) *Within the past year, where have you worked?

Overseas

Domestic (US)

Both

Comments:

Please feel free to provide additional comments or observations related to the U.S. Government's zero tolerance policy regarding trafficking in persons. Your comments will be held in the strictest of confidence.

17) Optional Feedback.

Thank you for participating

Text of Federal Acquisition Regulation Clause 52.222-50

52.222-50 Combating Trafficking in Persons

As prescribed in [22.1705\(a\)](#), insert the following clause:

COMBATING TRAFFICKING IN PERSONS (FEB 2009)

(a) *Definitions.* As used in this clause—

“Coercion” means—

- (1) Threats of serious harm to or physical restraint against any person;
- (2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- (3) The abuse or threatened abuse of the legal process.

“Commercial sex act” means any sex act on account of which anything of value is given to or received by any person.

“Debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

“Employee” means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

“Forced Labor” means knowingly providing or obtaining the labor or services of a person—

- (1) By threats of serious harm to, or physical restraint against, that person or another person;
- (2) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
- (3) By means of the abuse or threatened abuse of law or the legal process.

“Involuntary servitude” includes a condition of servitude induced by means of—

- (1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or
- (2) The abuse or threatened abuse of the legal process.

“Severe forms of trafficking in persons” means—

- (1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

“Sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(b) *Policy.* The United States Government has adopted a zero tolerance policy regarding trafficking in persons. Contractors and contractor employees shall not—

- (1) Engage in severe forms of trafficking in persons during the period of performance of the contract;
- (2) Procure commercial sex acts during the period of performance of the contract; or
- (3) Use forced labor in the performance of the contract.

(c) *Contractor requirements.* The Contractor shall—

- (1) Notify its employees of—
 - (i) The United States Government’s zero tolerance policy described in paragraph (b) of this clause; and
 - (ii) The actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and
- (2) Take appropriate action, up to and including termination, against employees or subcontractors that violate the policy in paragraph (b) of this clause.

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(d) *Notification.* The Contractor shall inform the Contracting Officer immediately of—

- (1) Any information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, or subcontractor employee has engaged in conduct that violates this policy; and
- (2) Any actions taken against Contractor employees, subcontractors, or subcontractor employees pursuant to this clause.

(e) *Remedies.* In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d), or (f) of this clause may result in—

- (1) Requiring the Contractor to remove a Contractor employee or employees from the performance of the contract;
- (2) Requiring the Contractor to terminate a subcontract;
- (3) Suspension of contract payments;
- (4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance;
- (5) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or
- (6) Suspension or debarment.

(f) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts.

(g) *Mitigating Factor.* The Contracting Officer may consider whether the Contractor had a Trafficking in Persons awareness program at the time of the violation as a mitigating factor when determining remedies. Additional information about Trafficking in Persons and examples of awareness programs can be found at the website for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/g/tip>.

(End of clause)

Alternate I (Aug 2007). As prescribed in [22.1705](#)(b), substitute the following paragraph in place of paragraph (c)(1)(i) of the basic clause:

- (i) (A) The United States Government's zero tolerance policy described in paragraph (b) of this clause; and
- (B) The following directive(s) or notice(s) applicable to employees performing work at the contract place(s) of performance as indicated below:

Document Title Document may be obtained from: Applies performance to in/at:

[Contracting Officer shall insert title of directive/notice; indicate the document is attached or provide source (such as website link) for obtaining document; and, indicate the contract performance location outside the U.S. to which the document applies.]

**Current Presentation of Federal Acquisition Regulation Clause 52.222-50 in
Department of State Contracts**

*CLAUSES FOR PURCHASE ORDERS AND BLANKET PURCHASE AGREEMENTS AWARDED BY OVERSEAS
CONTRACTING ACTIVITIES (Current thru FAC 2005-36)*

NON-COMMERCIAL ITEMS

FAR 52.252-2 Clauses Incorporated By Reference (FEB 1998)

This purchase order or BPA incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this address: <http://acquisition.gov/far/index.html>

DOSAR clauses may be accessed at: <http://www.statebuy.state.gov>

FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1) CLAUSES

NUMBER	TITLE	DATE
52.204-7	Central Contractor Registration	APR 2008
52.204-9	Personal Identity Verification of Contractor Personnel (if contractor requires physical access to a federally-controlled facility or access to a Federal information system)	SEPT 2007
52.213-2	Invoices (if order is for subscriptions with advance payments)	APR 1984
52.213-4	Terms and Conditions – Simplified Acquisitions (Other Than Commercial Items)	AUG 2009
52.217-6	Options for Increased Quantity (if order contains options where the quantity is expressed as a percentage of the basic order quantity or as an additional quantity of a specific line item)	MAR 1989
52.217-8	Option to Extend Services (if order is for services and contains options)	NOV 1999
52.217-9	Option to Extend the Term of the Contract (if order is for services and contains options) Fill-in for paragraph (a): “the performance period of the order or within 30 days after funds for the option become available, whichever is later.” Fill-in for paragraph (c): [insert time frame]	MAR 2000
52.222-50	Combating Trafficking in Persons Alternate I (applies when notified of specific U.S. directives or notices regarding trafficking in persons)	FEB 2009 AUG 2007
52.225-14	Inconsistency Between English Version and Translation of Contract (if a translation of the contract is attached)	FEB 2000
52.225-19	Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States (applies to services at danger pay posts)	MAR 2008

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CLAUSES FOR PURCHASE ORDERS AND BLANKET PURCHASE AGREEMENTS AWARDED BY
OVERSEAS CONTRACTING ACTIVITIES
(Current thru FAC 2005-36)

COMMERCIAL ITEMS

FAR 52.252-2 Clauses Incorporated By Reference (FEB 1998)

This purchase order or BPA incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this address: <http://www.acqnet.gov/far>

DOSAR clauses may be accessed at: <http://www.statebuy.state.gov/dosar/dosartoc.htm>

FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1) CLAUSES

NUMBER	TITLE	DATE
52.204-9	Personal Identity Verification of Contractor Personnel (if contractor requires physical access to a federally-controlled facility or access to a Federal information system)	SEPT 2007
52.212-4	Contract Terms and Conditions – Commercial Items (Alternate I (OCT 2008) of 52.212-4 applies if the order is time-and-materials or labor-hour)	MAR 2009
52.225-19	Contractor Personnel in a Diplomatic or Consular Mission Outside the United States (applies to services at danger pay posts only)	MAR 2008
52.227-19	Commercial Computer Software License (if order is for software)	DEC 2007
52.228-3	Workers' Compensation Insurance (Defense Base Act) (if order is for services and contractor employees are covered by Defense Base Act insurance)	APR 1984
52.228-4	Workers' Compensation and War-Hazard Insurance (if order is for services and contractor employees are <u>not</u> covered by Defense Base Act insurance)	APR 1984

The following clause is provided in full text:

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders - Commercial Items (SEP 2009)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

- (1) 52.222-50, Combating Trafficking in Persons (FEB 2009) (U.S.C. 7104(g))
Alternate I (AUG 2007) of 52.222-50 (U.S.C. 7104(g))
- (2) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).
- (3) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the contracting officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate]

Clause Number and Title
(1) 52.203-6, Restrictions on Subcontractor Sales to the Government (SEPT 2006), with Alternate I (OCT 1995) (41 U.S.C. 253g and 10 U.S.C. 2402). [Check if order exceeds \$100,000]
(2) 52.203-13, Contractor Code of Business Ethics and Conduct (DEC 2008) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

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	(3) – (19) [Reserved].
	(20) 52.222-19, Child Labor – Cooperation with Authorities and Remedies (AUG 2009) (E.O. 13126). [Check if order is for supplies and exceeds the micro-purchase threshold]
	(21) 52.222-21, Prohibition of Segregated Facilities (FEB 1999). [Check if the following apply: for supplies, the order exceeds \$10,000 and is awarded to a U.S. firm. For services, the order exceeds \$10,000 and is awarded to a U.S. firm whose employees who will be performing the work were recruited within the U.S.]
	(22) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246). [Check if the following apply: for supplies, the order exceeds \$10,000 and is awarded to a U.S. firm. For services, the order exceeds \$10,000 and is awarded to a U.S. firm whose employees who will be performing the work were recruited within the U.S.]
	(23) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEPT 2006) (38 U.S.C. 4212). [Check if the following apply: for supplies, the order exceeds \$100,000 and is awarded to a U.S. firm. For services, the order exceeds \$100,000 and is awarded to a U.S. firm whose employees who will be performing the work were recruited within the U.S.]
	(24) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793). [Check if the following apply: for supplies, the order exceeds \$10,000 and is awarded to a U.S. firm. For services, the order exceeds \$10,000 and is awarded to a U.S. firm whose employees who will be performing the work were recruited within the U.S.]
	(25) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEPT 2006) (38 U.S.C. 4212). [Check if you have included the clause 52.222-35]
	(26) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201) [Check if the order is for services and the amount exceeds \$100,000]
√	(27)(i) 52.222-50, Combating Trafficking in Persons (FEB 2009) [Check for all orders]
	(27)(ii) Alternate I of 52.222-50 [Check if the contracting officer has been notified of specific U.S. directives or notices regarding combating trafficking in persons that apply to contractor employees]

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Appendix E

Office to Monitor and Combat Trafficking in Persons Response



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United States Department of State

Washington, D.C. 20520

October 4, 2011

MEMORANDUM TO: OIG – Harold W. Geisel

FROM: G/TIP – Ambassador Luis CdeBaca

SUBJECT: Draft Report on Audit of Bureau of East Asian and Pacific Affairs Compliance with Trafficking in Persons Requirements

Thank you for the opportunity to comment on the OIG draft Audit of the Bureau of East Asian and Pacific Affairs Compliance with Trafficking in Persons Requirements. G/TIP finds the report to be a helpful, if somewhat troubling, analysis. There is undoubtedly a need for increased awareness and understanding of human trafficking in the State Department, and for strengthened implementation of the FAR provisions on TIP. Our Office is ready to work with the relevant bureaus to implement the recommendations identified by the OIG.

We have only one substantive edit to propose in regard to the narrative text covering the results of the audit. In the discussion of the Zero Tolerance Policy, the language on NSPD-22 could be a bit clearer. NSPD-22 does not establish the framework for the implementation of the entire TVPA. We would offer the following edit:

National Security Presidential Directive (NSPD) 22, issued on December 16, 2002, was a policy directive to instruct federal agencies to strengthen their collective efforts, capabilities, and coordination to support the policy to combat trafficking in persons ~~established the framework for implementation of the TVPA.~~ NSPD-22 states that eradicating trafficking includes raising awareness at home and abroad about human trafficking and how it can be eradicated...

In terms of the recommendations, G/TIP agrees with the substantive deficiencies the OIG has identified as in need of redress. We would propose, however, that the entities responsible for carrying out the four remedial actions be somewhat adjusted to reflect appropriate lead offices and ensure that all relevant actors are represented.

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1. On Recommendation 1, we would suggest the formation of an internal department working group on TIP to amend the FAM, with M and G/TIP as co-chairs. Many topics that would be covered in such a revision go beyond G/TIP's authority, given that issues raised by the draft audit report involve important equities of M bureaus.
2. In regard to Recommendation 2, we note that USAID recently put in place a revised standard of conduct relating to TIP which may be a good starting point for Department discussions on this matter.
3. We agree completely that there needs to be a clear POC in the Department for reporting TIP allegations. We believe, however, that M should have the lead (rather than G/TIP) in designating an office in the Department to which employees could report potential TIP violations.
4. We endorse Recommendation 4, on expanding TIP training to all Department employees. We would suggest that Director General's office also be included in this effort, as standards of personal conduct by USG employees will be necessarily be covered. [Note: Under the auspices of the interagency TIP Senior Policy Operating Group (SPOG), DHS and DOS are already working on an online General Awareness training that would be made available to all USG personnel, which could be used to help implement this recommendation. DHS leadership has already stated its intention to ensure all DHS employees are trained on TIP.]

Thank you again for affording G/TIP the opportunity to comment on the draft audit, and for all the work the OIG has done to support the fight against human trafficking.

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and resources hurts everyone.

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