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THE BROADCASTING BOARD OF GOVERNORS

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
SUBCOMMITTEE ON TECHNOLOGY, INFORMATION POLICY,  
INTERGOVERNMENTAL RELATIONS AND PROCUREMENT REFORM

ON

ARE GOVERNMENT CONTRACTORS EXPLOITING WORKERS OVERSEAS?  
EXAMINING ENFORCEMENT OF THE TRAFFICKING VICTIMS  
PROTECTION ACT

NOVEMBER 2, 2011

Thank you Chairman Lankford, Ranking Member Connolly, and Members of the Subcommittee for the opportunity to discuss our office's oversight of the Department's compliance with the *Federal Acquisition Regulation* (FAR) clause 52.222-50, "Combating Trafficking in Persons (TIP)."

OIG has actively conducted TIP oversight to include making it an area of emphasis for audits, inspections, and evaluations. We appreciate the opportunity to present the findings of our October 2011 audit on the Bureau of East Asian and Pacific Affairs' (EAP) compliance with TIP requirements and our January 2011 evaluation on TIP in various Arab States of the Gulf.

The objective of our October 2011 audit was to measure the extent to which Department of State (Department) personnel and contractors were complying with laws, regulations, and policies established to prevent and detect TIP activities on Department-awarded contracts. While the audit team did not find evidence "of any form of TIP involving Department employees or contractors," it remains clear from the audit that the Department must strengthen its approach to employ the "zero tolerance" policy regarding TIP.

Specifically, we found that Department employees in 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. The audit team, with the assistance of EAP, distributed a “General Awareness Survey” to employees in the Asia-Pacific region to assess whether the employees were aware of issues related to TIP. A total of 1,702 Department employees responded to that survey. The survey disclosed that 46 percent of the Department employees either were “somewhat aware” or “not at all aware” of the -zero tolerance policy- for TIP; 43 percent of the employees would not know where to report a TIP violation; and 79 percent of the employees had not received training related to the awareness, prevention, or reporting of TIP violations.

The audit team concluded that the lack of awareness occurred because the Department had not established and communicated a formal TIP policy to its employees that included a definition of TIP activities and a mechanism for reporting suspected violations. In addition, although the Department’s code of conduct 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. The lack of clarity in the code of conduct compounded with the absence of knowledge regarding TIP-related activities could lead to TIP violations, since many incidents may go unreported.

In addition to Department employees' lack of awareness, we found that contractors in the Asia-Pacific region were not always aware of or complied with their obligations under FAR clause 52.222-50. We conducted site visits and met with 24 contractors whose contracts included the FAR clause and found 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 violating that policy. Additionally, six contractors hired subcontractors for the performance of services; however, none of those contractors had included the required FAR clause in their subcontracting agreement.

A contributing factor to the contractors' 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 and eight contracts did not contain the correct version of the clause. 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 TIP.

Also, during 2010 and 2011 inspections, the inspectors also found that embassy contracts did not always include FAR clause 52.222-50. In FY 2010, the inspectors reviewed contracts at 20 embassies and consulates and found that 25 percent of the posts had contracts that did not include the required FAR clause. In FY 2011, teams addressed the same issue at 16 overseas locations and found that 19 percent of the posts had contracts that did not include the required FAR clause. When the inspectors found contracts that did not include the FAR clause, embassy staff immediately began the process of modifying the contract.

During the course of our October 2011 audit, the Department issued Procurement Information Bulletin (PIB) No. 2011-09, "Combating Trafficking in Persons," which requires contracting officer's representatives (CORs) to ensure that all solicitations and contracts over the micro-purchase threshold (\$3,000) contain FAR clause 52.222-50. The publication also provides guidance to CORs on how to monitor contracts for TIP compliance. We expect that the new guidance will enhance the Department's process for monitoring contracts for TIP compliance.

In our October 2011 audit report, we recommended that the Department implement a policy in the *Foreign Affairs Manual* (FAM) on TIP, expand the

Department's code of conduct to prohibit TIP activities, and designate an office responsible for employees and contractors 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.

In response to the audit, the Ambassador for G/TIP stated that his office found the report helpful, if "somewhat troubling," and that there was "undoubtedly a need for increased awareness and understanding of human trafficking in the State Department." The Ambassador for G/TIP generally agreed with all the report's recommendations and stated that he was in the process of taking corrective actions.

In addition to our October 2011 audit report, our office in January 2011 released an evaluation conducted on six contracts in Kuwait, Oman, Saudi Arabia, and the United Arab Emirates to assess the risk of TIP-related activities occurring within these Arab States of the Gulf. Although we found no direct evidence that contractors violated provisions of FAR clause 52.222-50, several findings increased the likelihood that a TIP violation could occur.

Specifically, the evaluation team found that 77 percent of contract employees interviewed had to pay fees up-front during recruitment, which could indicate an increased risk of debt bondage, and that every contractor reviewed confiscated workers' passports. In addition, contract workers at all embassies and consulates general expressed frustration with inconsistent payment, confusing pay stubs, and withheld wages. Also, more than 70 percent of the workers interviewed reported that they lived in overcrowded, unsafe, or unsanitary conditions.

These conditions occurred because CORs did not have standard procedures to monitor the implementation of the FAR clause, and as a result, TIP monitoring was ineffective. We made recommendations to the embassies to strengthen TIP monitoring procedures and also recommended that the Department provide detailed guidance on how to monitor contractors' practices and activities regarding TIP. In general, the Department agreed with the recommendations and has either implemented, or is in the process of implementing, those report's recommendations.

The practices of some contractors can negatively affect foreign workers and reflect poorly on the Department. We believe that the adoption of a strong TIP

program, to include increasing Departmental employees' awareness and the implementation a mechanism to report suspected TIP violations, as well as a strong monitoring program of Department contractors, will aid in preventing TIP and help ensure that foreign workers are treated fairly and within the law.

Once again, thank you, for the opportunity to present our work on this important topic. I am pleased to answer any questions you may have.