

**OFFICE OF THE PROCUREMENT EXECUTIVE**  
PROCUREMENT INFORMATION BULLETIN NO. 2011-09

SUBJECT: Combating Trafficking in Persons

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1. Scope: This Procurement Information Bulletin (PIB) is applicable to all domestic and overseas contracting activities and Regional Procurement Support Offices.

2. Background: The Department of State employs contractors to support mission objectives throughout the world. Trafficking in persons (TIP) encompasses a variety of illegal and exploitative practices that occur throughout the world. The U.S. Government has a zero tolerance policy towards engagement in TIP by any recipient of federal funds. Every instance must be reviewed and addressed. FAR 52.222-50, Combating Trafficking in Persons, sets government-wide requirements for preventing these practices. This PIB provides guidance to Contracting Officers and Contracting Officer's Representatives (CORs) on how to monitor contracts for TIP compliance.

3. Responsibilities:

a. **Solicitation and contract clauses**: Contracting Officers and CORs must ensure that all solicitations and contracts over the micro-purchase threshold (currently \$3,000), including all options, contain the clause at FAR 52.222-50, Preventing Trafficking in Persons. FAR 52.222-50 would be included in Section I for Uniform Contract Format solicitations and contracts. It is already included in the clause FAR 52.212-5 for commercial item solicitations and contracts;

b. **Proposal content and evaluation requirement**: Whenever there is a potential for employer-provided housing (such as use of third country nationals), the Contracting Officer must include in the solicitation a requirement for a housing plan. The requirement would state that contractors providing such housing as part of contract performance must provide a housing plan as part of their quote or proposal. The housing plan must clearly demonstrate that the Contractor-provided housing will be in accordance with all applicable local laws, as well as adequate to attract and retain employees; and

c. **Contracting Officer and COR monitoring**: See Attachment 1, Contracting Officer and Contracting Officer Representative (COR) TIP Responsibilities, for guidance on how Contracting Officers and CORs can monitor TIP compliance. Contracting Officers and CORs should review this guidance and structure a monitoring program using as many of these suggestions as feasible.

4. Questions: Questions can be directed to Daniel J. Walt, Procurement Analyst, at 703-516-1696, fax 703-875-6155, or by e-mail.

5. Effective Date: This PIB is effective immediately.

03/24/2011

Date

/// signed ///

Corey M. Rindner  
Procurement Executive

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## **Attachment 1: Contracting Officer and Contracting Officer Representative (COR) Responsibilities for Monitoring TIP**

Both the Contracting Officer and the COR play important roles in preventing TIP. The following are suggested actions a Contracting Officer or a COR can take to minimize the risk of TIP on their contract. Contracting Officers and CORs should review these suggestions and utilize those techniques appropriate to their situation:

### 1. Pre-Solicitation:

- a. TIP Clause: Ensure contracts contain the required Trafficking in Persons clause, FAR 52.222-50 “Combating Trafficking in Persons”. Contact the Contracting Officer if it is missing. Provide the clause in full text to ensure contractors understand clause requirements if needed. Contracting Officers are responsible for including the clause in all contracts over the micro-purchase threshold;
- b. TIP Risk Assessment: Contact the Trafficking in Persons (TIP) Official at the post to assess the nature and level of TIP threats at place of performance. Review the Trafficking in Persons Report by the Office of Combating Trafficking in Persons (G/TIP). Determine if the program is at greater risk of TIP because of low wage labor, use of third country nationals, employer provided housing, or use of recruiters;
- c. Local Labor Law Assessment: Get information on local labor laws from Human Resources, Political Section or other sources. Local labor laws may prevent a Contractor from charging workers for obtaining work permits, may require payment of minimum wages and benefits, may prevent outside, non-sanctioned employment, or may define acceptable conditions for employer furnished housing; and
- d. Assess Contractor provided housing: Ensure solicitations include a requirement for contractors to submit a housing plan when required by page 1, paragraph 3(b) of this PIB. Contact the Contracting Officer if the requirement is missing. Contracting Officers are responsible for including this requirement in solicitations when there is a potential for employer provided housing such as use of third country nationals.

2. Pre-Proposal Conference: The Contracting Officer should discuss the importance of TIP prevention and the requirements of the clause at the Pre-Proposal Conference if held.

3. Post Award Orientation: Discuss the importance of preventing TIP in post award orientation. The Contracting Officer is responsible for leading the post award orientation with COR support. The requirements of the Combating Trafficking in Persons clause and Contractor efforts to comply should be an agenda item for every post award Contractor briefing. This ensures that all parties are aware of their responsibilities. The Contracting Officer should incorporate the following into the list of items on which the Contracting Officer briefs the contractor during this orientation:

- a. Discuss the importance of preventing TIP: Advise the Contractor that TIP is a highly visible issue that the U.S. Government feels strongly about;
- b. Zero tolerance policy: Tell the Contractor that Government has a zero tolerance

policy. Every instance of trafficking will be examined and could result in termination of employees or subcontractors, suspension of contract payments or contract termination;

- c. Brief employees: Insist that the Contractor brief employees on Trafficking in Persons prohibitions. This briefing should include the nature of trafficking, where it takes place, how to recognize it, the prohibition of the use of forced labor, and the importance of not procuring commercial sex which provides a financial environment for perpetuating TIP. Ask the Contractor for a copy of the briefing for the contract file;
- d. No commercial sex: Explain that the Contractor should tell his or her employees that they cannot procure commercial sex. Stress that the Contractor must discipline any employee procuring commercial sex and should report the incident to the Contracting Officer. Contracting Officers will review incidents to determine if contractor disciplinary actions are sufficient;
- e. Contractor should provide adequate housing plan: Explain that Contractors who provide worker accommodations should ensure these accommodations meet local host nation labor and health laws and are clean and adequate. Contractors submitting a housing plan in response to 1(d) above should promptly submit to the COR any material updates to the plan occurring during contract performance;
- f. Withhold passports or visas: Tell the Contractor that they may not withhold employee passports or visas without employee permission because this may have the effect of preventing the free movement of employees who no longer want to work for the Contractor. It has the appearance of bonded labor which is prohibited;
- g. Observe local labor laws: Contractors should understand the local labor laws. The Contractor should explain how they will keep abreast of changes in the laws;
- h. Clear explanations for salary deducts: The Contractor should explain deductions from wages. Unexplained wage deductions may cause employees to owe more than they make and force them to work for the contractor to pay off debts; and
- i. Briefing subcontractors: TIP requirements also apply to subcontractors. Prime Contractors should brief subcontractors on TIP requirements and must flow the TIP clause down to subcontractors.

#### 4. Contractor Monitoring:

- a. Verify the Contractor does not hold employees' passports and visas: Employee mobility may be severely limited if an employer holds the employee's travel documents. This activity may also be in violation of local labor laws. CORs should determine if the contractor is holding travel documents by interviewing employees during site visits to the work location;
- b. Ensure Contractor doesn't use work permits or physical force or threats to compel labor or obtain sexual activity: The COR should use locally engaged staff or others with knowledge of other languages to engage contractor employees who cannot communicate effectively in English in their own native language in order to determine if coercion or threats are being used;
- c. Determine that Contractor is knowledgeable about local labor laws: This assessment can be performed at the post award meeting and periodically through discussions with

contractor management as work progresses. It is the Contractor's responsibility to obtain this information from the host country, not the COR's;

- d. Verify that workers are informed about labor policies: Verification can be obtained through interviews with Contractor employees;
- e. Verify that Contractor is providing advice of salary deductions through periodic review: Employees who are not informed on the nature of salary deductions may find themselves in situations similar to bonded labor by owing more than they make. Verify that employees have the information they need to understand salary deductions;
- f. Verify that Contractor is briefing employees on the requirements of the Trafficking in Persons clause: This briefing is a requirement of the Trafficking in Persons clause. The COR should interview Contractor management as well as select employees to verify compliance. The COR should obtain a copy of the Contractor's briefing materials;
- g. Verify that the Contractor is briefing subcontractors and flowing the TIP clause down through subcontracts: Ask the Contractor to identify any subcontracts and show that the subcontracts contain the TIP clause. Have the Contractor provide a copy of briefing materials provided to subcontractors;
- h. Obtain information on employer furnished housing and periodically visit to assess adequacy: The adequacy of self selected housing is the responsibility of the employee. Employer furnished accommodations represent an expenditure of Government funds that should not be exploitative. Where housing is employer provided, particularly to third country national employees, CORs should obtain information on the location and nature of the housing. CORs will then better understand the Contractor's costs and should visit the housing periodically to ensure adequacy. Any concerns or requests for corrective action should be coordinated through the Contracting Officer to avoid any potential claims;
- i. Obtain information on Contractor violations: The Contractor is required to inform the Contracting Officer of any information that alleges a Contractor or subcontractor employee engaged in conduct that violates TIP requirements. CORs should communicate with the Contracting Officer on any compliance issues; and
- j. Audit support: CORs may work with their Contracting Officer to contract with an audit firm to assist in implementing TIP monitoring responsibilities.