



Counter-Trafficking in Persons and Contractor/Recipient Compliance:

Agency-Wide Standard Operating Procedure

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I. INTRODUCTION:

Trafficking in Persons

Trafficking in Persons (TIP) is an international crime involving the acquisition of a human being through the use of force, fraud, or coercion for the purpose of exploiting the individual for profit through forced labor or prostitution.¹

Thriving in the shadows of poverty and conflict, TIP victimizes millions of people worldwide. Although precise numbers are unknown, the scale of human trafficking is vast, affecting men, women and children in every country in the world. The root causes of TIP are linked to development challenges that USAID addresses every day, including limited education and employment opportunities, weak social safety nets, a tenuous rule of law, and ethnic and gender discrimination.

USAID is among the largest donors engaged in counter-trafficking in persons (C-TIP). USAID programmed \$163.3 million in C-TIP activities in 68 countries and Regional Missions between FY 2001 and FY 2010. During this time period, USAID provided 22% of all USG C-TIP international programming with the remainder provided by the State Department and Department of Labor.²

USAID's Counter-Trafficking in Persons Policy and Code of Conduct

In an effort to reinvigorate USAID's C-TIP investments and demonstrate a renewed commitment to being a leader in C-TIP, the Agency launched the 2012 Counter-Trafficking in Persons Policy (See Tab 2). In the policy, USAID highlights the five primary agency objectives relating to TIP, one of which is enhanced institutional accountability to combat TIP as a result of training and coordination.

Complicity by the international community in human trafficking, whether by host governments, international organizations, donors, NGOs, contractors or assistance recipients—especially in conflict and disaster regions—has been well documented. In February 2011, USAID adopted a C-TIP Code of Conduct (See Tab 3) that advances the highest ethical standards for all USAID personnel, as well as contractors, sub-contractors, recipients and sub-recipients. The code seeks to deter all activities that would facilitate or support TIP in any form. In furtherance of this effort, USAID's Bureau of Democracy, Conflict and Humanitarian Assistance (DCHA) formed an intra-agency working group to specifically combat contractor and recipient TIP abuses. The working group consists of DCHA, the Office of the Inspector General (OIG), the Office of General Counsel (GC), the Management Bureau's Office of Acquisitions and Assistance (OAA) and TIP advisors from regional and pillar bureaus.

¹ USAID Counter-Trafficking in Persons Policy. February 2012. Page 1. www.usaid.gov/trafficking.

² Policy. Page 4.

Counter-Trafficking in Persons Standard Operating Procedure

USAID takes the issue of human trafficking in government contracts and assistance awards (grants and cooperative agreements) very seriously. This document demonstrates the current comprehensive standard operating procedure (SOP) of the agency with regards to potential TIP abuses by contractors, sub-contractors, assistance recipients and sub-recipients. While this SOP is in full effect at this time, USAID is aware that this issue has been, and continues to be, evolving over time. Therefore, the SOP will be amended to reflect any necessary changes. The Agency is working directly with the White House and other federal agencies to ensure that not only USAID, but the entire USG, is sharing best practices and developing standards that will be used throughout the federal government to guarantee that TIP abuses in government contracts and assistance awards is no longer an issue.

II. TRAINING FOR AGENCY PERSONNEL ON RECOGNIZING AND REPORTING TIP

Under the C-TIP Code of Conduct, USAID has an obligation to sensitize USAID personnel to human trafficking and the ethical conduct requirements that prohibit the procurement of commercial sex and the use of trafficked labor. Additionally, USAID must equip personnel with the necessary knowledge and tools to recognize, report, and address human trafficking offenses. In order to fulfill these obligations, USAID is committed to incorporating C-TIP into a variety of specialized trainings.

All Agency Employees

New Civil Service Employees Orientation: All Civil Service employees new to USAID will receive C-TIP training through the mandatory New Employee Orientation. The C-TIP session focuses on the definition of TIP, the various forms of TIP and employee obligations under the C-TIP Code of Conduct.

New Foreign Service Officers Orientation: All new career competitive Foreign Service officers will receive C-TIP training through the Development Leadership Initiative. Additionally, all new Foreign Service Limited officers deploying to Afghanistan will receive C-TIP training through the Afghanistan Pre-Departure Training. This C-TIP session also focuses on the definition of TIP, the various forms of TIP and employee obligations under the C-TIP Code of Conduct.

Ethics Training for all USAID employees: C-TIP is incorporated into the annual ethics refresher course, which is mandatory for all USAID employees, both in Washington, D.C. and in the field.

Office of the Inspector General Investigators

While USAID itself does not conduct training for the Office of Inspector General (OIG) investigators, the investigators regularly receive training and periodic updates from the

Department of Justice on a variety of issues, including TIP. Additionally, USAID/DCHA and OIG collaborate closely on TIP-related issues. USAID/DCHA will distribute a C-TIP information packet to all OIG Investigations personnel to provide further guidance on investigating TIP abuses in government contracts and assistance awards.

Contracting Officers, Agreement Officers, Contracting Officer Representatives and Agreement Officer Representatives

C-TIP training is available to all acquisition personnel through the Federal Acquisition Institute (FAI). FAI offers an in-depth online training module specifically developed for acquisition personnel, which provides an overview of TIP, a summary of relevant laws and regulations, and a detailed explanation of the roles and responsibilities of different acquisition personnel.

III. DUE DILIGENCE PRIOR TO AWARDING CONTRACTS, GRANTS & COOPERATIVE AGREEMENTS

C-TIP Clause in Every Contract, Grant and Cooperative Agreement

Consistent with the Trafficking Victims Protection Act of 2000 (TVPA), the Federal Acquisitions Regulation (FAR) requires that clause 52.222-50, Combating Trafficking in Persons (See Tab 4), be included in all solicitations and contracts. When procuring commercial items, TIP requirements are incorporated through paragraph (a) of FAR 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

As of October 1, 2010, all assistance awards to the U.S. and Non-U.S. non-governmental recipients must include the Mandatory Standard Provision entitled “Trafficking in Persons (October 2010)” (See Tab 4). This mandatory clause is being further updated to simplify it and thereby promote understanding and compliance within the recipient community.

All mandatory clauses/provisions prohibiting TIP are included in the Global Acquisition and Assistance System (GLAAS), which Agency contracting officers and agreement officers are required to use to generate all Agency awards.

Future audits conducted by USAID’s Office of the Inspector General (OIG) will verify compliance with these federal and Agency-specific requirements.

Internal Guidance

In 2012, USAID’s Procurement Executive will issue a Procurement Executive Bulletin (PEB) on C-TIP that applies to all USAID Contracting Officers (COs) and Agreement Officers (AOs) and A&A staff worldwide. The purpose of the PEB is to remind COs and AOs of their responsibilities for implementing the requirements of the several federal TIP statutes and to provide additional guidance for more effective compliance.

Past Performance

The FAR requires that contractor performance information be collected (FAR Part 42) and used in source selection evaluations (FAR Part 15).

Past Performance evaluations provide essential information to make better acquisition decisions and significant incentives to contractors to provide superior supplies and services. Contractors' compliance with and implementation of TIP requirements will be reflected in their past performance evaluations in the Performance Assessment Reporting System (CPARS).

IV. RESPONDING TO ALLEGATIONS OF ABUSE

Responsibility to Report:

Under the Code of Conduct, all USAID employees are required to report all suspected TIP violations to USAID's OIG. The OIG hotline number, email address, and mailing address are provided to employees in the C-TIP Code of Conduct and all TIP-related training. This contact information is also advertised through posters and brochures distributed throughout all USAID Missions world-wide. The OIG hotline is staffed solely by OIG personnel, who are trained to respond to all allegations of waste, fraud, or abuse, including TIP.

Additionally, the OIG includes information on the Agency's C-TIP Policy and Code of Conduct, the FAR mandatory contract clauses, and reporting requirements in its fraud awareness briefings. On average, approximately 180 briefings are held each year world-wide, reaching over 4,500 implementing partners and Agency personnel in the field.³

OIG Investigations:

The OIG Office of Investigations (OIG/I) conducts worldwide investigations into allegations of criminal, civil, and administrative violations related to the Agency. The investigative priority of the OIG/I is to prevent fraud, waste, and abuse within programs and operations of USAID's client agencies and to foster and encourage the integrity of USAID employees, as well as those of USAID's contractors, grant recipients, and host country counterparts. In addition to its many areas of focus, OIG/I's role includes identifying and investigating cases relating to TIP abuses. OIG/I will pursue allegations of TIP abuses in USAID programs and activities as well as other related violations of law or misconduct by those who participate in these programs. OIG/I's Special Agents have full law enforcement authority and employ an array of investigative techniques including interviews, surveillance, electronic monitoring, undercover operations, subpoenas, and the execution of arrest and search warrants.⁴

³ These numbers were taken from the Semiannual Reports to Congress for the periods of 4/1/10-9/30/10, 10/1/10-3/31/2011, and 4/1/11-9/30/11.

⁴ www.usaid.gov/oig/investigations/

Remedial Actions:

In the event that an OIG investigation of alleged TIP abuses is substantiated, the OIG will execute its independent authority and may take one or more actions, which may include referral for criminal or civil prosecution in the U.S. or the host country in which the violation took place. Additionally, all cases in which allegations of TIP abuses are substantiated can be referred to the appropriate entities within USAID for the following administrative actions:

- 1) *Contract Remedies:* Upon completion of a TIP investigation, if the OIG finds that a TIP violation has occurred, it can report the case to the Mission Director in the country in which the abuse took place. The Mission Director will convey the report to the relevant Contracting Officer or Agreement Officer, who has legal authority to pursue contract remedies, including but not limited to, issuing a bill of collection or canceling the contract or agreement.
- 2) *Suspension and Debarment:* Upon completion of a TIP investigation, if the OIG finds that a TIP violation has occurred, it can send a referral to the Compliance Division of OAA for administrative action (i.e. suspension or debarment). Compliance Division staff will review each referral and make a recommendation to the Suspending and Debarring Official (SDO). If the process results in a suspension or debarment, the name of the individual or entity will be entered into the Excluded Parties List System (www.epls.gov) in accordance with the time period as established in the regulations.

Additionally, the Administrator or Deputy Administrator will meet with the OIG periodically to discuss C-TIP compliance and other matters as necessary. This dialogue will assist USAID in ensuring that the SOP is effectively implemented to help combat trafficking in persons in all Agency operations, including contracts and assistance awards.