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U.S. DEPARTMENT OF STATE AND
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 Persian Gulf region.

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 employing 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 how 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 did not comply with their obligations under FAR clause 52.222-50. We conducted site visits and met with 24 contractors whose contracts included the FAR clause. We 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 to perform services; however, no contractors had included the required FAR clause in their subcontracting agreement.

A contributing factor to the contractors' lack of awareness was 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 contractors 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 to which employees and contractors should report suspected TIP violations. In addition, the Office to Monitor and Combat Trafficking in Persons (G/TIP) should, in collaboration with the Foreign Service Institute, expand TIP training to all Department employees.

In response to the audit, the Ambassador-at-Large 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 generally agreed with all the report's recommendations and stated that he was in the process of taking corrective actions.

We also released an evaluation in January 2011 of six contracts in Kuwait, Oman, Saudi Arabia, and the United Arab Emirates, which assessed 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, we found indicators that 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 we 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.

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

Contractors' practices can negatively affect foreign workers and reflect poorly on the United States. We believe that adopting a strong TIP program, which includes mechanisms to increase employees' awareness, report suspected

TIP violations, and provide for strong monitoring of contractors, will help prevent TIP and 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.

EVELYN R. KLEMSTINE, ASSISTANT INSPECTOR GENERAL



As Assistant Inspector General for Audits, Ms. Evelyn R. Klemstine is responsible for leading, directing, monitoring, and reporting audit activities, including financial statement and performance audits, evaluations, and management reviews that promote the economy, efficiency, and effectiveness of U.S. Department of State and Broadcasting Board of Governors (BBG) programs and operations. From 2004 to 2009, Ms. Klemstine served as the Assistant Inspector General for Auditing at the National Aeronautics and Space Administration (NASA). She was responsible for a broad range of professional audits of NASA programs and projects and contractor activities that focused on issues impacting the NASA mission. These issues related to the Space Shuttle and International Space Station

Programs, procurements, the financial management program, and information technology security. In addition, she was responsible for oversight of audits by independent public accountants of non-profit organizations, colleges, and universities receiving substantial NASA funding.

From 1995 to 2004, Ms. Klemstine served at the Department of Defense (DoD) as the Program Director for the International Programs Division, Readiness and Logistics Support Directorate, Office of Inspector General. She was responsible for supervising and monitoring audits related to international and cooperative aircraft acquisition, export controls, foreign disclosure policies, and international agreements. Under her leadership and direction, her division tackled complex, controversial, diverse, and politically sensitive international and intergovernmental issues. Her responsibilities included audits and evaluations related to the Cooperative Threat Reduction Program (dismantlement of nuclear and chemical weapons in the former Soviet Union), North Atlantic Treaty Organization, United Nations, and Foreign Military Sales programs as well as export control policies and procedures.

As a result of her outstanding achievements, Ms. Klemstine has received numerous awards throughout her career. In November 2004, the Secretary of Defense presented her the DoD Distinguished Civilian Service Award “for her leadership and exceptional devotion to duty to the resolution of large-scale organizational problems directly impacting national security and Defense strategy considerations.” Other significant awards she has received include the DoD Inspector General’s Meritorious Award, the DoD Inspector General’s Superior Civilian Service Award, and the President’s Council on Integrity and Efficiency Award for Excellence in Management.

Ms. Klemstine was born in Hamburg, Germany. She received her Bachelor of Science of Accounting in 1979 from Virginia Polytechnical Institute and State University (Virginia Tech) and her Master of Business Administration in 1986 from Boston University.