

# Inspector General

United States  
Department of Defense



DEPARTMENT OF DEFENSE  
OFFICE OF INSPECTOR GENERAL

MISSION STATEMENT

*Promote integrity, accountability, and improvement of Department of Defense personnel, programs and operations to support the Department's mission and serve the public interest.*





INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
400 ARMY NAVY DRIVE  
ARLINGTON, VIRGINIA 22202-4704

JAN 15 2010

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION,  
TECHNOLOGY AND LOGISTICS  
ACTING UNDER SECRETARY OF DEFENSE FOR PERSONNEL  
AND READINESS

SUBJECT: Evaluation of DoD Contracts Regarding Combating Trafficking in Persons  
(Project No. D2009-DIP0E3-0260.001)

We are providing this report for information and use.

We requested and received management comments from the Office of the Under Secretary of Defense for Acquisition, Technology and Logistics; and the Office of the Under Secretary of Defense for Personnel and Readiness. We considered their comments in preparing the final report.

We appreciate all courtesies extended to the staff. Please direct questions to Mr. George Marquardt at (703) 604-9159 (DSN 664-9159) or Mr. Stephen Chiusano (703) 604-9123 (DSN 664-9123). We will provide a formal briefing on the results of our evaluation if management requests.

A handwritten signature in black ink, appearing to read "CWB", is positioned above the printed name of the Deputy Inspector General.

Charles W. Beardall  
Deputy Inspector General  
for Policy and Oversight

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# Results in Brief: Evaluation of DOD Contracts Regarding Combating Trafficking in Persons

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## What We Did

Section 232 of the “William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008,” Public Law 110-457 (December 23, 2008), requires the Inspectors General of the Department of Defense, the Department of State, and the United States Agency for International Development to investigate a sample of contracts where there is a heightened risk that a contractor may engage in acts related to trafficking in persons.

In response, we reviewed a sample of Department of Defense contracts for compliance with the “Trafficking Victims Protection Act of 2000,” title 22, United States Code, chapter 78, (as amended).

We reviewed reports covering areas of heightened risk for trafficking in persons, selecting the Republic of Korea, Japan, and the Territory of Guam for our first evaluation. We conducted site visits at United States military installations in these locations. We also reviewed and summarized DOD criminal investigative data collection efforts related to combating trafficking in persons.

## What We Found

As a result of our site visits and interviews, we found:

- DOD and other Federal law enforcement criminal activity databases had no effective mechanism to track trafficking in persons incidents, but a Federal law enforcement advisory policy group is considering this issue.
- Half of the contracts sampled either did not contain the Combating Trafficking in Persons clause, or were modified to include the clause just prior to our site visits.
- The Standard Procurement System contract building software allowed for deletion of the mandatory Combating Trafficking in Persons Clause.
- Contracting officers lacked an effective process for obtaining information concerning trafficking in persons violations.

## What We Recommend

- The Standard Procurement System should be modified so that the mandatory Combating Trafficking in Persons clause cannot be removed during solicitation or contract document build.
- The DOD law enforcement community should proactively share trafficking in persons convictions information with contracting offices.
- Relevant contract quality assurance plans should include combating trafficking in persons considerations.

## Client Comments and Our Response

The Office of the Under Secretary of Defense for Personnel and Readiness agreed with our recommendation, and stated they planned to modify Department of Defense policy to comply with the recommendation after Federal law enforcement organizations agree upon an overarching identification scheme for TIP-related offences. The Director, Defense Procurement, Acquisition Policy and Strategic Sourcing, of the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics agreed with our recommendations, and provided plans for their implementation.

## Recommendations Table

Client	Recommendations Requiring Comment	No Additional Comments Required
Director, Defense Procurement, Acquisition Policy and Strategic Sourcing, of the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics		1, 3
Director, Law Enforcement Policy and Support, of the Office of the Under Secretary of Defense for Personnel and Readiness		2

**Total Recommendations in this Report: 3**

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## Introduction

Over the past decade, actions of U.S. Forces personnel and contractors working for DOD overseas involving sexual slavery, human trafficking, and debt bondage attracted media attention and motivated Congressional action. Prior to 2000, instances of sexual slavery, sex with minors, and human trafficking involving U.S. contractors in Bosnia and Herzegovina led to administrative and criminal investigations. In 2002, a local television news program aired a report that women trafficked from the Philippines, Russia, and Eastern Europe were forced into prostitution in bars in South Korea frequented by U.S. military personnel. In 2004, reports chronicled allegations of forced labor and debt bondage against U.S. contractors in Iraq, leading to foreign embassy involvement. These incidents were contrary to U.S. Government policy regarding official conduct<sup>1</sup> and reflected poorly on DOD.

## Background

In 2000, Congress passed, and the President signed into law, two statutes responding in part to identified U.S. Forces and contractor misconduct in Bosnia and Herzegovina: Public Law 106-386, which included the “Victims of Trafficking and Violence Protection Act of 2000,” on October 28, and Public Law 106-523, “Military Extraterritorial Jurisdiction Act of 2000,” on November 22.

Congressional intent regarding the first statute was “to combat trafficking in persons [CTIP], a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.” The second statute established “Federal jurisdiction over offenses committed outside the United States by persons employed by or accompanying the Armed Forces, or by members of the Armed Forces who are released or separated from active duty prior to being identified and prosecuted for the commission of such offenses.” Congress specifically extended this extraterritorial jurisdiction over trafficking in persons (TIP) offenses committed by persons employed by or accompanying the Federal Government outside the United States in Public Law 109-164, “Trafficking Victims Protection Reauthorization Act Of 2005,” January 10, 2006.

Additional reauthorizations expanded the scope and applicability of the original statute. Public Law 108-193, the “Trafficking Victims Protection Reauthorization Act of 2003,” December 19, 2003, gave the Government the added authority to terminate grants, contracts, or cooperative agreements for TIP-related violations.

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<sup>1</sup> Executive Order 13257 “President’s Interagency Task Force To Monitor and Combat Trafficking in Persons,” of February 13, 2002, and Executive Order 13333, “Amending Executive Order 13257 To Implement the Trafficking Victims Protection Reauthorization Act of 2003,” March 18, 2004.

The President shall ensure that any grant, contract, or cooperative agreement provided or entered into by a Federal department or agency under which funds are to be provided to a private entity, in whole or in part, shall include a condition that authorizes the department or agency to terminate the grant, contract, or cooperative agreement, without penalty, if the grantee or any subgrantee, or the contractor or any subcontractor (i) engages in severe forms of trafficking in persons or has procured a commercial sex act during the period of time that the grant, contract, or cooperative agreement is in effect, or (ii) uses forced labor in the performance of the grant, contract, or cooperative agreement.<sup>2</sup>

In 2006 the Civilian Agency Acquisition Council and the Defense Acquisition Council agreed on an interim rule implementing the above stated requirement, adding Federal Acquisition Regulation Subpart 22.17, “Combating Trafficking in Persons.” The regulation states that the “subpart applies to all acquisitions,” and paragraph 22.1705, “Contract clause” states:

- (a) Insert the clause at 52.222-50, Combating Trafficking in Persons, in all solicitations and contracts.
- (b) Use the basic clause with its Alternate I when the contract will be performed outside the United States (as defined at 25.003) and the contracting officer has been notified of specific U.S. directives or notices regarding combating trafficking in persons (such as general orders or military listings of “off-limits” local establishments) that apply to contractor employees at the contract place of performance.

Our mandate for this evaluation is contained in Public Law 110-457, “William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008,” December 23, 2008. Subtitle D, section 232, requires the DOD IG, for FYs 2010 through 2012, to:

“...investigate a sample of ... contracts, or subcontracts at any tier, under which there is a heightened risk that a contractor may engage, knowingly or unknowingly, in acts related to trafficking in persons, such as:

- (A) confiscation of an employee’s passport;
- (B) restriction on an employee’s mobility;
- (C) abrupt or evasive repatriation of an employee;
- (D) deception of an employee regarding the work destination; or
- (E) acts otherwise described in section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104).”

Section 232 of Public Law 110-457 also requires a report to Congress no later than January 15 of each year:

- (A) summarizing the findings of the investigations conducted in the previous year, including any findings regarding trafficking in persons or any improvements needed to prevent trafficking in persons; and

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<sup>2</sup> The language is codified in section 7104g, title 22, United States Code (22 U.S.C. §7104g [2009]).

- (B) in the case of any contractor or subcontractor with regard to which the Inspector General has found substantial evidence of trafficking in persons, report as to—
- (i) whether or not the case has been referred for prosecution; and
  - (ii) whether or not the case has been treated in accordance with section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104) (relating to termination of certain grants, contracts and cooperative agreements).

This report is the first in a series, and it discusses results of our review of contracts awarded in FY 2009.

## **Objective**

We announced this project on August 5, 2009. Our objective was to review a sample of DOD contracts for compliance with the “Trafficking Victims Protection Act of 2000,” 22 U.S.C. 78 (2009), as amended, and to summarize DOD CTIP investigative efforts.

## **Scope**

We examined a sample of contracts solicited, awarded, and administered by Army, Navy, Marine Corps, and Air Force commands in the U.S. Pacific Command area of responsibility, specifically the Republic of Korea, Japan, and U.S. Territory of Guam. Subsequent reports will cover additional Combatant Command geographical areas of responsibility. Our contract sample consisted of construction and service contracts, each with a total value of \$5 million or more and awarded in FY 2009. We believe that this sample met the “heightened risk” standard stated in the statute. All contracts reviewed were generated using the Standard Procurement System / Procurement Desktop Defense (SPS / PD2) software application.

## **Methodology**

The team began field work in August 2009. Prior to performing site visits, we coordinated with the Inspectors General from the Department of State and the U.S. Agency for International Development. On August 20, 2009, we consulted with the Director of the Office to Monitor and Combat Trafficking in Persons of the Department of State. We also contacted selected DOD administrative and criminal investigation organizations to obtain case results data.

We conducted site visits in October 2009. During the site visits, we reviewed a total of 99 contracts. We also interviewed military commanders, contracting officers, contracting specialists, and representatives of contractors involved with the contracts in our sample.

For a more detailed discussion of the project methodology, see Appendix A.

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## Observations

### Trafficking in Persons Criminal Investigations Reporting

Section 108 of Public Law 110-457 amended 22 U.S.C. §7109a “Trafficking Victims Protection,” to require an integrated database that provides “an effective mechanism for quantifying the number of victims of trafficking on a national, regional, and international basis....” The database shall combine “all applicable data collected by each Federal department and agency represented on the Interagency Task Force to Monitor and Combat Trafficking....”<sup>3</sup> We examined a summary of the DOD case data that contributed to the national database.

We requested reports from four Defense criminal investigative organizations<sup>4</sup> summarizing criminal investigative activity for FY 2009 related to TIP and involving a DOD contractor or sub-contractor. Data provided included one report of preliminary investigative activity of a contractor in Iraq. According to the report, the contractor took corrective action. Investigative findings were briefed to representatives of the Civil Rights Division of the U.S. Department of Justice, who determined facts and circumstances did not warrant further action.

During analysis, we observed that data concerning TIP-related criminal investigative activity received from various sources was inconsistent. The criminal investigative organizations we queried reported that “Trafficking in Persons” was not a searchable category in their respective databases. Database managers had to query related offenses (pandering, kidnapping, etc.) and make a case-by-case determination for a TIP connection.

Federal law enforcement national databases also had no mechanism to specifically identify TIP-related offenses.<sup>5</sup> The problem requires an interagency solution, and the Federal Bureau of Investigation’s Criminal Justice Information Services Division created an Advisory Policy Board that has the issue as an action item. DOD is represented on this Advisory Policy Board. Recommendations for changes to DOD systems should await an over-arching Federal law enforcement solution to ensure “uniformity of such data collection and standards and systems related to such collection,” as required by Public Law 110-457.

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<sup>3</sup> Public Law 110-457, “William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008,” section 108. “Research on Domestic and International Trafficking in Persons.”

<sup>4</sup> The Defense criminal investigative organizations queried were the Defense Criminal Investigative Service, the U.S. Army Criminal Investigation Command, the Naval Criminal Investigative Service, and the US Air Force Office of Special Investigations.

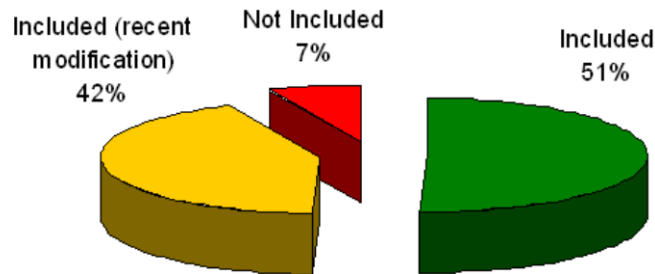
<sup>5</sup> The Federal Bureau of Investigation maintained the Uniformed Crime Reporting System and National Incident-Based Reporting System; DOD used the Defense Incident-Based Reporting System.

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## Combating Trafficking in Persons Clause Inclusion in Contracts

The Federal Acquisition Regulation requires that all Federal solicitations and contracts contain clause 52.222-50, “Combating Trafficking in Persons,” or 52.222-50 with the Alternate I modification for contracts with performance outside the U.S. The team reviewed 99 Army, Navy, Marine Corps, and Air Force service or construction contracts in the Republic of Korea, Japan, and the Territory of Guam that were awarded in FY 2009. As shown in Figure 1, we found that 92 (93 percent) of the contracts contained the mandatory clause, and the clause was missing from 7 (7 percent) of the contracts.



**Figure 1. Presence of the CTIP Clause in Sampled Contracts**

Contracting organizations included the appropriate CTIP clause at the award date in 50 (51 percent) of the contracts reviewed. However, contracting officers modified 42 (42 percent) of the contracts to add the clause during the two weeks prior to our visit. In summary, half of the contracts reviewed did not meet the requirement when awarded because they either did not contain the CTIP clause or had been recently modified prior to our evaluation.

Contracting officers interviewed stated that they all used the SPS / PD2 software application to accomplish contract actions. While SPS / PD2 was not the only system used by DOD contracting officers to write contracts, all the contracts in our sample were built using SPS / PD2.

Officials from the Standard Procurement System Joint Program Office (of the Business Transformation Agency, Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics) stated that SPS / PD2 was deployed to over 20,000 DOD users at approximately 800 sites around the world. Representatives from the contractor responsible for maintaining SPS / PD2 performed a software demonstration of contract template modification and contract development.

Officials from the Standard Procurement System Joint Program Office explained that they are notified of changes to the Federal Acquisition Regulation (such as addition of a mandatory clause – e.g., CTIP) from the Defense Procurement Acquisition Policy office. They required the SPS / PD2 software development contractor to modify the program,

test the change, and post the approved update to a web-based server. Contracting office-designated system administrators and other authorized individuals in the field were notified of changes and downloaded and installed updates to their systems. System administrators also developed “deviations” to the SPS / PD2 template which were applied to customize solicitations and contracts to meet Service-wide, regional, and local requirements.

In a typical SPS / PD2 solicitation or contract build, contracting personnel access a series of menus to select clauses and choose those most appropriate for the acquisition. It was possible to deselect clauses at any time during the build in SPS / PD2 or after it was converted into a text document.

Contracting officers at several sites stated that they built contracts through a series of drop down menus but did not take out mandatory clauses. However, half of the 99 contracts we sampled did not include the CTIP clause when drafted using the SPS / PD2 system. We identified three possibilities:

- System administrators and other authorized individuals did not perform timely system updates. This would result in contracting officers using an out-of-date template to build contracts. Contracting offices need to ensure timely updates.
- System administrator “deviations” blocked parts of the approved Federal Acquisition Regulation clause updates.
- Contracting personnel in the field deselected the clause during the template build or deleted the clause from the converted text document.

Noncompliance with the requirement to include the CTIP clause in contracts has two primary effects. First, contractors remain unaware of the Government’s “zero tolerance” policy and self-reporting requirements regarding CTIP. Several contractors interviewed during site visit sensing sessions were unfamiliar with the CTIP clause requirements, including potential penalties. The lack of awareness was unsurprising, as half of the contracts did not contain the clause or it had been recently added by modification. Second, while the CTIP policy and provisions are law, it is unlikely that contracting officers would be able to enforce non-specified clause requirements or statutory language not clearly written into the contract.

*Recommendation 1:* The Director, Defense Procurement, Acquisition Policy and Strategic Sourcing, of the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics should modify policy and procedures to ensure that the mandatory Federal Acquisition Regulation clause 52.222-50, “Combating Trafficking in Persons,” or Alternate I, cannot be removed from solicitations or contracts developed in Standard Procurement System / Procurement Desktop Defense.

## ***Client Comments and Our Response***

The Director, Defense Procurement, Acquisition Policy and Strategic Sourcing, of the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics agreed with our recommendation. They plan to update the SPS / PD2 clause logic to require the CTIP clause in all contracts, and prevent deletion of the clause from documents generated from the software.

We found the comments from the Director, Defense Procurement, Acquisition Policy and Strategic Sourcing, of the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics to be responsive to the recommendation.

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## Notifying Contracting Officers of Trafficking in Persons Incidents

Federal Acquisition Regulation clause 52.222-50, “Combating Trafficking in Persons,” requires contractors to notify the Government contracting officer immediately if they receive information alleging that any employee or subcontractor has engaged in conduct violating the CTIP clause.<sup>6</sup> If contractors did not self-report, either through oversight or deliberate omission, contracting officers had no established process to obtain relevant information regarding actual or alleged acts in violation of the CTIP clause.

Contracting officers have two other potential sources for information concerning contractor CTIP violations: information made available to the public by criminal investigative organizations and results from quality assurance inspections.

Contracting personnel we interviewed stated they do not routinely look for or receive the results of law enforcement investigations into CTIP-related cases. In Korea, the contracting command had access to the daily report generated by the Provost Marshal (the “blotter”), but the report did not include investigations by Service investigative or law enforcement organizations. While dissemination of law enforcement sensitive data is restricted, information that is releasable (indictments, convictions, etc.) should be shared with contracting offices.

Most service or construction contracts have a quality assurance plan authorizing quality assurance specialists or contracting officer representatives to evaluate contractor performance and compliance with contract terms and conditions.<sup>7</sup> During interviews with contracting officers and contract specialists, none said CTIP considerations were part of quality assurance plans for contracts we reviewed.

Working directly with assigned quality assurance personnel, contracting officers could add a CTIP focus to existing quality assurance plans. Adding applicable language would encourage contracting officers to verify worker legal status and assure compliance with the prohibition against using forced labor or other TIP related offenses. Within the 50 States and the District of Columbia, the Davis-Bacon Act of 1931 mandates labor checks for construction workers performing work on Federal government contracts.<sup>8</sup> Local labor laws and Status of Forces Agreements in the contract location of performance would affect design and implementation of expanded quality assurance plans overseas.

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<sup>6</sup> Federal Acquisition Regulation clause 52.222-50, “Combating Trafficking in Persons,” states that “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.”

<sup>7</sup> Requirements for quality assurance plans are prescribed in Federal Acquisition Regulation Part 46, “Quality Assurance.”

<sup>8</sup> The Davis-Bacon Act, March 3, 1931, incorporated in 40 U.S.C. §§3141-3144, 3146, and 3147 (1931).

The CTIP clause outlines potential Government remedies if contractor employees are involved in prohibited activities, ranging from requiring the contractor to remove an employee from performance on the contract up to suspension or debarment. The CTIP clause also requires contractors to “take appropriate action, up to and including termination...” against the offending employee. The contracting officer could accept the remedy chosen by the contractor as sufficient; requiring no further action.

Should the contractor not take action and the contracting officer remain unaware of contractor employee violations, no remedy is possible. Also, the lack of knowledge would impact contracting officers’ reward, contract option, or new contract decisions. Delayed awareness by contracting officers could result in negative publicity associated with awarding a contract to, or continuing a relationship with, a company or individual involved with prohibited activities. Providing timely information concerning CTIP-related violations to contracting officers will improve contract decisions.

*Recommendation 2:* The Director, Law Enforcement Policy and Support, of the Office of the Under Secretary of Defense for Personnel and Readiness, should develop policy and procedures to share publicly releasable indictment and conviction case information involving trafficking in persons with appropriate contracting organizations, when such cases involve current or potential government contractors.

*Recommendation 3:* The Director, Defense Procurement, Acquisition Policy, and Strategic Sourcing, of the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics should modify procedures, guidance and information for the Defense Federal Acquisition Regulation section 222-1703 “Combating Trafficking in Persons” clause to include combating trafficking in persons considerations as part of every relevant quality assurance plan.

### ***Client Comments and Our Response***

The Office of the Under Secretary of Defense for Personnel and Readiness agreed with recommendation 2, and stated that they would modify appropriate Department of Defense Instructions to comply with the recommendation once Federal law enforcement organizations reach a decision regarding specific identification of TIP-related offences.

The Director, Defense Procurement, Acquisition Policy and Strategic Sourcing, of the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics agreed with recommendation 3, and stated they plan to develop policy and guidance regarding contracting officer representative oversight responsibilities and quality assurance plans.

We found the comments from the Director, Defense Procurement, Acquisition Policy and Strategic Sourcing, of the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, as well as those from the Office of the Under Secretary of Defense for Personnel and Readiness to be responsive to the recommendations.



# Appendix A. Methodology and Acronyms

## Methodology

We announced the project on August 6, 2009. We examined statutes, policies, procedures, and management and oversight reports relevant to DOD policy and practices regarding efforts to combat trafficking in persons. We contacted selected Defense criminal investigative organizations to obtain case result data.

We conducted this evaluation from August to November 2009, in accordance with the standards established by the President's Council on Integrity and Efficiency (now the Council of the Inspectors General on Integrity and Efficiency) published in the *Quality Standards for Inspections*, January 2005. We conducted site fieldwork in October 2009 at U.S. Forces installations in the Republic of Korea, Japan, and the U.S. Territory of Guam. The evidence we obtained provides a reasonable basis for our observations and conclusions in concert with our objectives.

We met with the DOD CTIP program office, located within the office of the Under Secretary of Defense for Personnel and Readiness. We coordinated with Inspectors General from the Department of State and U.S. Agency for International Development. On August 20, 2009 we consulted with the Director of the Office to Monitor and Combat Trafficking in Persons of the Department of State.

We selected the U.S. Pacific Command area of responsibility as an area satisfying the "heightened risk" standard required by statute.<sup>9</sup> This decision was based on historical precedent and command interest of the U.S. Forces Korea, planned DOD force relocations in the U.S. Territory of Guam, and country "tier placements" in the Department of State's "Trafficking in Persons Report," June 2009. We will observe locations in other geographic Combatant Commands for subsequent reports.

We visited 13 installations in the U.S. Pacific Command area of responsibility and reviewed 99 selected contracts to determine if the mandatory Federal Acquisition Regulation clause 52.222-50 (February 2009) or Alternate I (August 2007) was included. The team conducted 38 interviews, briefings, and sensing sessions discussing CTIP issues. We briefed and interviewed military commanders, and performed sensing sessions with 96 contracting officers and specialists in the Army, Navy, and Air Force contracting units in order to gauge awareness of CTIP efforts. We also interviewed representatives from 39 prime contractors, discussing contractor self-reporting and training mechanisms.

We developed a sample of contracts through a data request to organizations with acquisition authority in the U.S. Pacific Command area of responsibility. We asked these

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<sup>9</sup> Public Law 110-457, "William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008," section 232. See page 2 of this report.

organizations to identify all contracts for construction and services awarded in FY 2009, with a total contract value (including options) of \$5 million or greater. These constraints provided us with a reasonable data set that was current and included labor-intensive efforts with significant numbers of short- and medium-term employees susceptible to forced labor practices. All contracts reviewed were generated using the SPS / PD2 software application.

## Use of Computer-Processed Data

The list of contracts for our data sample was provided by the contracting offices from their database systems. The contracting offices provided the best available source for the information, but we did not assess the reliability of those systems nor test the sample for completeness. However, the conclusions in this report were based on personal observation that was not influenced by selection methodology, and we did not attempt to estimate or project additional results from our sample. We believe the sample reviewed was sufficient to support our conclusions.

## Acronyms

CTIP	Combating Trafficking in Persons
SPS / PD2	Standard Procurement System / Procurement Desktop Defense
TIP	Trafficking in Persons
U.S.C.	United States Code

## Appendix B. Client Comments

### Office of the Director, Defense Procurement and Acquisition Policy, of the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics

ACQUISITION,  
TECHNOLOGY  
AND LOGISTICSOFFICE OF THE UNDER SECRETARY OF DEFENSE  
3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

JAN 13 2010

MEMORANDUM FOR TECHNICAL DIRECTOR, AUDIT FOLLOW-UP & GAO  
AFFAIRS, OFFICE OF THE INSPECTOR GENERAL,  
DEPARTMENT OF DEFENSE

THROUGH: DIRECTOR, ACQUISITION RESOURCES AND ANALYSIS

SUBJECT: Evaluation of the DoD Combating Trafficking in Persons (CTIP) Program  
(D2009-DIPOE3 -0260.000)

This is in response to your subject draft report dated December 11, 2009 that provides the Department three recommendations. Defense Procurement and Acquisition Policy is providing comments to recommendations #1 and #3 as identified below.

**Recommendation 1:** The Director, Defense Procurement, Acquisition Policy and Strategic Sourcing, of the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics should modify policy and procedures to ensure that the mandatory Federal Acquisition Regulation (FAR) clause 52.222-50, "Combating Trafficking in Persons," or Alternate I, cannot be removed from solicitations or contracts developed in Standard Procurement System (SPS) / Procurement Desktop Defense (PD2).

**Comment:** Concur. SPS employs a clause logic application that identifies for the contracting officer a list of clauses for potential inclusion in solicitations and contracts. The SPS clause logic application will be updated in the next release scheduled for February 2010 such that FAR clause 52.222-50, *Combating Trafficking in Persons*, is marked as "Required" for solicitations and contracts when performance will be inside the United States. This will prevent end users from removing this clause during the creation of the solicitation/contract after clause logic has been run. The SPS clause logic application will be updated so that users could include FAR clause 52.222-50 Alternate I, when overseas performance is anticipated in accordance with the prescription at FAR 22.1705(b). Additionally, a future change to SPS (currently planned for service release 12) is planned to prevent the user from deleting the generated clauses for the Word document that is generated. Service release 12 is currently scheduled to be provided to the government September 30, 2010, for acceptance testing. Deployment is expected to begin with calendar year 2011. Finally, our office will develop policy this quarter to instruct the Components not to use SPS system overrides or other administrative methods of developing clauses for use in SPS-generated contracts to avoid the inclusion of FAR clause 52.222-50 or its alternate in contracts.

**Recommendation 3:** The Director, Defense Procurement, Acquisition Policy, and Strategic Sourcing, of the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics should modify procedures, guidance and information for the

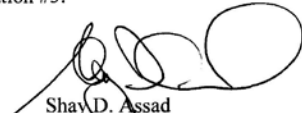
Defense Federal Acquisition Regulation Supplement (DFARS) 222.1703 "Combating Trafficking in Persons" clause to include combating trafficking in persons considerations as part of every relevant quality assurance plan.

**Comment:** Concur. The IG Report recommends including combating trafficking in persons considerations as part of every relevant quality assurance plan. FAR 46.401 addresses the use of the Quality Assurance Surveillance Plan (QASP) for determining that the supplies or services conform to contract requirements.

We will develop guidance with regard to FAR 52.222-50 "Combating Trafficking in Persons" for Contracting Officer Representative (COR) oversight responsibilities as well as for Quality Assurance Surveillance Plans (QASP). This guidance will be developed by subcommittee 6, Contracting Officer Surveillance, of the Department's Contracting Integrity Panel.

Finally, the Defense FAR Supplement (DFARS) Policies Guidelines and Instructions (PGI) will be updated to stress the importance of contracting officer oversight of contractor compliance with FAR clauses 52.222-50 and 52.222-54.

Thank you for the opportunity to comment on the subject draft report. If you need additional information, my action officer is [REDACTED], for recommendation #1 and [REDACTED] for recommendation #3.



Shay D. Assad  
Director, Defense Procurement  
and Acquisition Policy

## Office of the Under Secretary of Defense for Personnel and Readiness

PERSONNEL AND  
READINESSOFFICE OF THE UNDER SECRETARY OF DEFENSE  
4000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-4000

DEC 28 2009

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL  
(ATTN: DIRECTOR INSPECTIONS AND EVALUATION)SUBJECT: Draft Report Evaluation of the DoD Contracts Regarding Combating  
Trafficking in Persons

The following is provided regarding draft report recommendation 2: "The Director, Law Enforcement Policy and Support, of the Office of the Under Secretary of Defense for Personnel and Readiness, should develop policy and procedures to share publicly releasable indictment and conviction case information involving trafficking in persons with appropriate contracting organizations, when such cases involve current or potential government contractors."

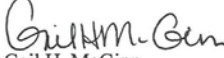
As your draft report correctly states, currently there is no Federal or military system or database to specifically identify trafficking in persons (TIP)-related offenses. Consistent with the report's recommendation, changes to DOD systems will await the over-arching Federal law enforcement solution to ensure "uniformity of such data collections and standards and systems related to such collection." Without a uniform system to collect information on Federal "indictments and convictions," DoD's awareness of such Federal court actions is, at best, happenstance and incomplete. Furthermore, the military justice system involving trials by courts-martial does not use an indictment process, as does the Federal judicial system. Therefore, there is no avenue to report UCMJ prosecutions by "indictment." However, the Judge Advocates General will be asked to report courts-martial convictions in which one or more charges involve TIP-related offenses, based on the overarching Federal law enforcement solution that is developed.

A reissuance of DoD Instruction 2200-01, Subject: Combating Trafficking in Persons (CTIP) attached, is currently out for comments. Once the overarching Federal law enforcement solution is developed, we will add the following insertion under the Services and Combatant Command responsibilities in order to satisfy the above-referenced recommendation.

- "Provide publicly-releasable information on Federal indictments and Federal district court and court-martial convictions on all known TIP-related cases, to include government contractor employees, to the USD (P&R) DoD Program Manager. The USD (P&R) DoD Program Manager shall provide this publicly-releasable information to OUSD (AT&L) in order to notify current or potential contractor organizations, as appropriate."



My point of contact for this action is [REDACTED].

  
Gail H. McGinn  
Deputy Under Secretary of Defense (Plans)  
Performing the Duties of the  
Under Secretary of Defense  
(Personnel and Readiness)

Attachment:  
As stated



## General Information

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