



**United States Department of State
and the Board of Broadcasting Governors**

Office of Inspector General

MEMORANDUM REPORT

FROM: OIG – Harold W. Geisel, Deputy Inspector General 

SUBJECT: Performance Evaluation of Department of State Contracts to Monitor Vulnerability to Trafficking in Persons Violations in the Levant, MERO-I-11-07

Background

Trafficking in persons (TIP) is a form of modern-day slavery afflicting more than 12 million victims worldwide each year.¹ The Trafficking Victims Protection Act of 2000 (TVPA) established minimum standards for eliminating TIP around the world, while subsequent reauthorizations of the TVPA placed requirements in the *Federal Acquisition Regulation* (FAR) that forbid the use of trafficked labor for all U.S. Government contracts.² The TVPA defines and proscribes severe forms of trafficking in persons, including sex trafficking, forced labor, involuntary servitude, peonage, debt bondage, and slavery.³ These severe forms of TIP correspond to internationally recognized forms of trafficking as defined by the International Labor Organization (ILO). In 2009, the ILO developed operational indicators for TIP along six dimensions: (1) deceptive recruitment;

¹ See *Trafficking in Persons Report, 10th Edition*, U.S. Department of State, June 2010, page 7.

² The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003, Section 106 (g)(1) states that any grant, contract, or cooperative agreement entered into by the Federal government shall include a condition that authorizes the government to terminate the grant, contract, or cooperative agreement without penalty if the contracted party engages in severe forms of trafficking in persons, procures a commercial sex act, or uses forced labor during the period of time that the grant, contract, or cooperative agreement is in effect. This is codified as 22 U.S.C. § 7104(g) and implemented through FAR Subpart 22.17. The TVPRA of 2005 expanded extraterritorial jurisdiction to encompass trafficking offenses committed overseas by persons employed by or accompanying the Federal government. Section 232(b)(1) of the William Wilberforce TVPRA of 2008 provides specific examples of acts related to trafficking in persons including confiscation of an employee's passport, restriction on an employee's mobility, abrupt or evasive repatriation of an employee, and deception of an employee regarding the work destination. Section 232(a) directs the Inspectors General for the Department of State, the U.S. Agency for International Development, and the Department of Defense to investigate a sample of contracts and 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 those described in Section 232(b)(1).

³ TVPA Section 103.

(2) coercive recruitment; (3) recruitment by abuse of vulnerability; (4) exploitative conditions of work; (5) coercion at destination; and (6) abuse of vulnerability at destination.⁴

Department of State (Department) contracts, particularly labor-intensive contracts executed at overseas missions, are vulnerable to TIP because they frequently employ workers in countries where trafficking is a problem. The Department's guidance for administering contracts is derived from the FAR, the *Department of State Acquisition Regulations*, the *Foreign Affairs Manual* (FAM), the *Foreign Affairs Handbook*, and periodic Procurement Information Bulletins, cables, and notices from the Office of the Procurement Executive in the Bureau of Administration (A/OPE). The FAR prohibits contractors, their employees, and subcontractors from engaging in severe forms of TIP during the period of performance of the contract. Contractors and subcontractors are also required to notify employees of prohibited activities and convey the actions that may be taken against them for violations. FAR subpart 22.1705(a) explicitly requires that all solicitation and contracts include a clause explaining this policy. That clause (52.222-50) requires that all contracts include language on the FAR's TIP requirements.

The Middle East Regional Office of the Office of Inspector General (OIG) initiated this evaluation under the authority of the Inspector General Act of 1978, as amended. The objectives of this evaluation were to determine: (1) whether Department-funded contractors or subcontractors are engaged, knowingly or unknowingly, in acts related to TIP; and (2) whether U.S. embassies are following federal guidelines to effectively monitor Department-funded contractors and subcontractors and ascertain whether they are engaged in TIP-related acts. To address the first objective, OIG reviewed the management of 10 Department contracts for janitorial, gardening, security/local guard services, and construction at four U.S. embassies and one consulate general in the Levant⁵—Embassy Amman, Jordan; Embassy Beirut, Lebanon; Embassy Damascus, Syria; Embassy Tel Aviv, Israel; and Consulate General Jerusalem.⁶ OIG reviewed the selected contracts and contractor practices for violations of the TVPA and FAR clause 52.222-50, as well as for increased risk of TIP using ILO indicators. At each mission, OIG interviewed contracting officers, contracting officer's representatives (COR), contractors and/or managers, and contract employees. OIG also reviewed contract documents and local laws pertaining to labor and TIP. To address the second objective, OIG interviewed management section personnel and regional security officers at each of the five posts visited. OIG also

⁴ ILO defines trafficking in persons under the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (November 15, 2000). The United States is one of 182 member states comprising the ILO and one of the Protocol's 117 signatories. For more information, see *The cost of coercion, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, International Labour Conference, 98th Session 2009, Report I(B)*, pp. 6-9.

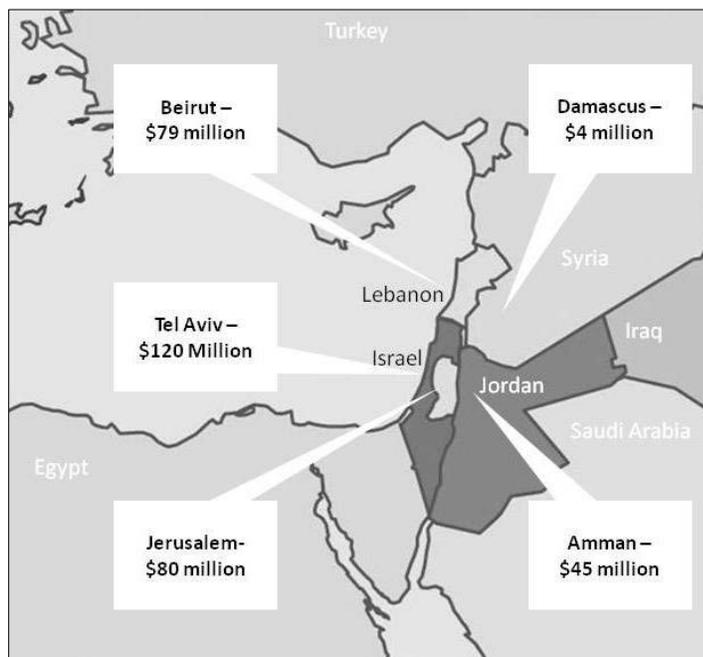
⁵ 1 FAM 116.1 states that the Levant comprises Jordan, Lebanon, and Syria. However, the Merriam-Webster dictionary defines the Levant as the countries bordering the eastern Mediterranean Sea, which would include Israel but exclude Jordan. Since this evaluation included reviews of contracts in Israel, Jordan, Lebanon, and Syria, and the city of Jerusalem, for simplicity in this report, OIG collectively refers to these five locations as the Levant.

⁶ OIG previously conducted a similar evaluation of the risks of TIP violations at U.S. missions in Kuwait, Oman, Saudi Arabia, and the United Arab Emirates. See *Performance Evaluation of Department of State Contracts to Assess the Risk of Trafficking in Persons Violations in Four States in the Cooperation Council for the Arab States of the Gulf*, MERO-I-11-06, January 2011.

interviewed contracting personnel from the Bureau of Administration and reviewed relevant Department guidance on TIP.

The four embassies and one consulate general were selected for field work based on: (1) dollar value of contracts at each mission; (2) ratio of dollars spent on anti-trafficking programs to contracts for labor intensive services; and (3) country ranking in the Department's *Trafficking in Persons Report* of 2009 and 2010. From FY 2008-2010, the Department awarded \$328 million in contracts in the region. The respective missions awarded \$107 million in contracts, and the Office of Acquisition Management awarded contracts valued at \$200 million. Contracts valued at \$15 million were awarded by the Regional Procurement Support Office in Frankfurt, Germany. Finally, contracts worth \$6 million were awarded directly by the Bureau for International Narcotics and Law Enforcement Affairs (INL). Figure 1 shows the total value of all contracts at the five missions from FY 2008-2010.

Figure 1: Value of Contracts in the Levant* by Mission, FY 2008-2010



*The Levant as defined by OIG for purposes of this report.

Source: OIG generated from the Federal Procurement Data System

OIG conducted this evaluation in accordance with the quality standards for inspections and evaluations issued in January 2005 by the Council of Inspectors General on Integrity and Efficiency.

A draft of this report was sent to the following entities, none of which provided management or technical comments: Bureau of Overseas Buildings Operations, Bureau of Near Eastern Affairs, Bureau of Diplomatic Security, Bureau of Administration, Office to Monitor and Combat

Trafficking in Persons, Office of International Labor and Corporate Social Responsibility, Embassy Tel Aviv, Embassy Amman, Embassy Beirut, Embassy Damascus, and Consulate General Jerusalem.

Results

Contractor Engagement in Trafficking in Persons

OIG found no direct evidence that contractors at the five missions violated the provisions of the TVPA or FAR mandatory clause 52.222-50 (Combating Trafficking in Persons) for the ten contracts evaluated at the U.S. embassies in Israel, Jordan, Lebanon, and Syria, and Consulate General Jerusalem. Specifically, OIG found no evidence that contractors were engaged in sex trafficking or illicit activities related to involuntary servitude, peonage, debt bondage, or slavery as defined by U.S. law.⁷

Using the ILO indicators for TIP, OIG found the management practices of nine of the 10 contractors showed no increased risk of trafficking. However, one contractor engaged in practices that increased the risk of TIP through exploitative conditions or work, including long work hours and payment issues. Specifically, all employees for one contractor reported they routinely worked double shifts equating to 70-80 hours per work week, but did not receive overtime pay, in violation of local labor law. In addition, all the employees reported having to pay fees to the employer to renew their work permits at a cost amounting to approximately 1 month's salary. However, at the time of OIG's field work, the contract was in its final days of performance and a new contract solicitation had already been issued. Moreover, the embassy at which the contract was executed had previously learned of the contractor's conduct and had disqualified it from issuing a proposal for the new contract.

While conducting field work in Amman, OIG learned of another contractor disqualified by the contracting officer for a TIP violation.⁸ The contracting officer stated that a female employee of the contractor alleged that her employer had solicited her to engage in prostitution. This action violates the U.S. Government's policy prohibiting a contractor from procuring commercial sex acts during the period of performance of the contract. After determining that the contractor had violated the FAR, the contracting officer terminated the existing contract with the contractor and disqualified the contractor from subsequent contracts.

Embassy Effectiveness in Monitoring for Trafficking in Persons

OIG found that all five missions are following Federal contracting guidelines to prevent trafficking. Nine of the 10 contracts reviewed contained the mandatory citation of or reference to FAR clause 52.222-50. The sole contract that did not contain the clause was established in 2004, before the TIP clause was required, and subsequent contract modifications did not incorporate the clause. In addition, nine of the 10 contracts contain a standard statement that the contractor

⁷ TVPA Section 103.

⁸ The contractor in question was not awarded any of the 10 contracts OIG selected for review under this evaluation.

agrees to comply with local labor laws, regulations, customs, and practices pertaining to labor, safety, and similar matters, to the extent that such compliance is not inconsistent with the requirements of the contract.⁹ The contracts also included language requiring the contractor to submit proof of compliance with these regulations.

Although FAR 52.222-50 prohibits U.S. Government contractors from engaging in TIP, it provides no guidance on how to monitor for TIP. Moreover, A/OPE Procurement Information Bulletins, notices, and cables do not address TIP-related issues. As a result, officials at the five missions stated they have little guidance about how to detect possible or actual TIP violations. OIG learned that some Department bureaus provide guidance to CORs on monitoring for TIP, but that guidance is not necessarily distributed throughout the mission. For example, in 2008, the Bureau of Overseas Buildings Operations (OBO) issued Administrative Bulletin A-07-08 *Treatment of Construction Workers on Our Sites*, which details specific measures to prevent TIP on construction projects. CORs for contracts administered by INL receive specific training in TIP prevention. However, CORs for the specific services contracts OIG reviewed, including the facility manager at Embassy Beirut, stated they were unaware of the OBO guidance and INL training.

Despite the lack of guidance, some mission personnel described their actions to monitor for TIP violations. For example, Embassy Amman contracted for an Arabic-language translation of FAR 52.222-50. The embassy also reviewed all existing contracts to ensure this regulation was specified in each, and that the Arabic-language version was also attached. Each contractor was required to provide written acknowledgement of incorporation of and commitment to abide by FAR 52.222-50. OIG commends the initiative to translate applicable language into Arabic, but cautioned that the contractors should be notified that the English language meaning rules if there are disputes regarding interpretation.¹⁰ In addition, the regional security officers at Embassy Damascus record ages and nationalities of contract employees in embassy security access requests and screen for underage employees. This information is useful in identifying contract employees who are third-country nationals and their country of origin. As a result, the mission can determine which employees are potentially vulnerable to TIP. At Embassy Tel Aviv, the political officer responsible for reporting on TIP-related issues assisted the general services officer in monitoring embassy contractors by using his contacts from local labor organizations. The general services officer provided a list of embassy contractors, and the political officer checked with these organizations to determine whether any contractor had a history or ongoing suspicions of TIP problems. The political officer reported to the general services officer that no contractors had any known association with TIP. Finally, the management sections at Embassy Amman and Embassy Tel Aviv, in collaboration with mission staff from the Department of Homeland Security's U.S. Immigration and Customs Enforcement, have developed and begun training their CORs in TIP prevention.

⁹ For simplified acquisition, one contract was issued under A/OPE guidelines which do not require the statement of compliance with local labor laws.

¹⁰ FAR 52.225-14 Inconsistency between English Version and Translation of Contract.