



USAID
FROM THE AMERICAN PEOPLE

USAID PROCUREMENT EXECUTIVE

PROCUREMENT EXECUTIVE'S BULLETIN NO. 2016-01 **Reissuance**

SUBJECT: Trafficking in Persons Guidance for Assistance

1. SCOPE:

This Bulletin applies to all USAID Agreement Officers (AOs) and A&A staff worldwide.

2. PURPOSE:

The purpose of this reissuance is to update best practices for AOs when communicating Trafficking in Persons requirements to recipients. All changes since the prior reissuance of this PEB have been highlighted in yellow.

This PEB provides guidance to Agreement Officers and A&A staff concerning the implementation of the Trafficking in Persons (TIP) prohibitions and requirements. ADS 303 was revised in July 2015 to include a new trafficking in persons mandatory standard provision for use in all solicitations and awards. The April 2016 revision of ADS 303 includes additional guidance for Agreement Officers and A&A staff and revised the TIP certification and the TIP mandatory standard provisions.

3. BACKGROUND:

The United States has long had a policy prohibiting U.S. Government employees and contractor and recipient personnel from engaging in trafficking in persons activities. Title XVII, entitled "Ending Trafficking in Government Contracting," of the 2013 National Defense Authorization Act (NDAA), enacted Jan. 2, 2013, greatly expanded the list of trafficking prohibitions and created a stronger framework to eliminate trafficking in persons activities in federal acquisition and assistance. The ADS 303 chapter and standard provisions implement the strengthened trafficking prohibitions contained in the 2013 NDAA.

4. DISCUSSION:

- a) **Trafficking Prohibitions.** The trafficking in persons prohibitions are listed in the mandatory standard provision, titled "Trafficking in Persons" found in the ADS 303 standard provisions. This provision is applicable to both U.S. and Non-U.S. recipients.
- b) **Certification Requirement and Compliance Plan.** In addition to the revised trafficking provision, the 2013 NDAA includes a special requirement if the estimated value of the

services required to be performed under the award outside the United States exceeds \$500,000. For those awards, the apparently successful applicant must submit to the AO the certification “Certification Regarding Trafficking in Persons” before the award can be made. The certification is found in the Mandatory Reference ADS 303mav “Certifications, Assurances, Other Statements of the Recipient.” The certification must also be submitted to the AO annually during the performance period of the award.

The certification requires the applicant to certify that it has implemented a compliance plan to prevent prohibited trafficking activities. The minimum requirements of the compliance plan are found in the mandatory standard provision. Compliance plans must be appropriate to the size and complexity of the assistance award and the nature and scope of its activities, including the number of non-U.S. citizens expected to be employed.

Important: The recipient is not required to submit the trafficking compliance plan to the AO, unless requested by the AO.

c) Additional Resources:

The U.S. Government has become aware of the increasing use of forced labor in the supply chain of many goods and services (most notably the acquisition of solar panels) procured with U.S. Government funds.

Until broader steps can be taken to secure supply chains, the Director of M/OAA issued an implementing partner notice in November 2022 to remind recipients that, as required by statute, all USAID assistance awards include a mandatory standard provision on trafficking in persons prohibiting contractors from using forced labor in the performance of their awards. (See ADS 303maa, Standard Provisions for U.S. Nongovernmental Organizations - M20(a)(3); ADS 303mab, Standard Provisions for Non-U.S. Nongovernmental Organizations - ; M15(a)(3); and ADS 303mat, Standard Provisions for Fixed Amount Awards to NGOs - M6(a)(3).

The implementing partner notice provided several resources developed by U.S. Government agencies that recipients may use:

- U.S. Customs and Border Protection (CBP) publishes and regularly updates a [list of entities subject to a Withhold Release Order \(WRO\)](#). Entities are listed here when the U.S. government has reasonable evidence of the use of forced labor in the manufacturing or production of the listed products.
- The Department of Commerce publishes and regularly updates an [Entity List](#), informing the public of entities that have been determined to be engaged in activities contrary to U.S. national security interests or otherwise sanctionable, including entities found to engage in a pattern of using forced labor.

- U.S. Department of Labor (DOL) publishes a [list of Products Produced by Forced or Indentured Child Labor](#). Products are included on this list when DOL has a reasonable basis to believe they are produced by forced or indentured child labor. DOL also maintains a [list of Goods Produced by Child Labor or Forced Labor](#). Goods are included on this list when DOL has reason to believe they are produced by child labor or forced labor in violation of international standards.
- The Department of Homeland Security publishes the [Uyghur Forced Labor Prevention Act Entities List](#). This list includes entities that mine, produce, and manufacture goods with forced labor, work with the government of Xinjiang to recruit and use forced labor, and source materials from Xinjiang produced using a government-labor scheme.

Inclusion of an entity or product on the lists described above may assist in uncovering forced labor in the supply chain. It remains the responsibility of the recipient to comply with the terms of the award

A copy of this implementing partner notice is included as Attachment 1.

5. **AGREEMENT OFFICER RESPONSIBILITIES:**

- AOs should read and **become familiar** with all of the requirements in the revised TIP Mandatory Standard Provision and the Certification requirements and TIP policy found in ADS 303.3.32.
- AOs must ensure that the revised TIP standard provision is incorporated into all solicitations, awards, and substantial amendments issued on or after July 22, 2015 (the date the revised TIP standard provision was originally published). Substantial amendments include any amendment that increases the period of performance of the award, increases the total program amount or expands the current program. If a substantial amendment is not anticipated, at the discretion of the AO and the recipient, current awards may still be bilaterally amended to incorporate the standard provision.
- AOs must ensure that the new TIP certification is included in all Notice of Funding Opportunities issued on or after July 22, 2015 (the date the new TIP requirements were originally published), in which the estimated value of the services required to be performed outside the United States exceeds \$500,000. In the event the original award does not exceed the threshold, but a subsequent amendment, coupled with the original award exceeds the \$500,000 threshold, the TIP certification must be incorporated in such amendment. At the discretion of the AO and the recipient, current awards in which the estimated value of the services to be performed outside the United States exceeds \$500,000, may be bilaterally amended to incorporate this certification.
- When issuing new Associate Awards under Leader with Associate Awards, if the estimated value of the services to be performed outside the United States exceeds

\$500,000, AOs must ensure that they receive the TIP certification from the applicant, in addition to the applicant's affirmation of certifications. AOs must also include all mandatory standard provisions, including the revised TIP standard provision, in the associate award.

- e) **VERY IMPORTANT**: As noted earlier, before signing an award in which the estimated value of the services required to be performed under the award outside the United States exceeds \$500,000, AOs **must ensure** that the apparently successful applicant has provided the AO the required Certification Regarding to the Trafficking in Persons, Implementing Title XVII of the National Defense Authorization Act for Fiscal Year 2013, which is found in ADS 303mav, "Certifications, Assurances, and Other Statements of the Recipient Solicitation Standard Provisions."
- f) The AO should consider the risk that the agreement or subawards will involve performance susceptible to trafficking in persons and the number of non-U.S. citizens expected to be employed, and encourage the apparently successful applicant to provide its employees with written work documents as appropriate.
- g) During the period of award, the recipient is also required to submit **annual certifications** to the AO regarding its compliance plan. Therefore, AOs should develop a method of tracking to ensure receipt of these annual certifications.
- h) When conducting the post-award briefing with the recipient, AOs are strongly encouraged to discuss the trafficking prohibitions, requirements, and Government remedies with the recipient found in ADS 303.3.32 Trafficking in Persons. AOs should also discuss the trafficking compliance plan requirements and the requirement for the recipient to provide the AO with annual certifications regarding their compliance plan for those awards with an estimated value of the services required to be performed outside the United States exceeding \$500,000. AOs are encouraged to document their award files to reflect this discussion.
- i) For information regarding the processing of alleged trafficking violations and remedies, see **ADS 303.3.32**.

6. POINT OF CONTACT.

The point of contact for questions regarding the TIP ADS 303 requirements is **Wendy Fujka, wfujka@usaid.gov.**

7. EFFECTIVE DATE.

This Bulletin is effective immediately and will remain in effect until canceled by the Procurement Executive or otherwise rescinded.

Date

Mark A. Walther
Senior Procurement Executive

Attachment 1 - IPN Letter

USAID Implementing Partner Notice #XX

Subject: Informed Compliance with Prohibition on the Use of Forced Labor in the Performance of USAID Awards

The U.S. Government has become aware of increasing use of forced labor in the supply chain of many goods and services (most notably the acquisition of solar panels) procured with U.S. Government funds. To address these concerns, USAID reminds recipients that, as required by statute, all USAID grants and cooperative agreement awards include a Trafficking in Persons standard provision [M20](#) (ADS 303maa - for US Nongovernmental Organizations), [M15](#) (ADS 303mab - for Non-US Nongovernmental Organizations) or [M6](#) (ADS 303mat - for Fixed Amount Awards to Nongovernmental Organizations) prohibiting recipients from using forced labor in the performance of their awards. (See specifically M20(a)(3); M15(a)(3); and M6(a)(3) of the provisions above).

In addition, recipients with awards to be performed outside the United States where the estimated value of services exceeds \$500,000 are required to submit an annual certification regarding trafficking in persons and implement a counter-trafficking in persons compliance plan. Failure to comply may result in termination of the award and other remedial actions (See M20(b), M15(b), and M6(b) of the Standard Provisions outlined above).

To aid in compliance, USAID directs its partners to several resources provided by U.S. Government agencies:

- U.S. Customs and Border Protection (CBP) publishes and regularly updates a [list of entities subject to a Withhold Release Order \(WRO\)](#). Entities are listed here when the U.S. government has reasonable evidence of the use of forced labor in the manufacturing or production of the listed products.
- The Department of Commerce publishes and regularly updates an [Entity List](#), informing the public of entities that have been determined to be engaged in activities contrary to U.S. national security interests or otherwise sanctionable, including entities found to engage in a pattern of using forced labor.
- U.S. Department of Labor (DOL) publishes a [list of Products Produced by Forced or Indentured Child Labor](#). Products are included on this list when DOL has a reasonable basis to believe they are produced by forced or indentured child labor. DOL also maintains a [list of Goods Produced by Child Labor or Forced Labor](#). Goods are included on this list when DOL has reason to believe they are produced by child labor or forced labor in violation of international standards.

- The Department of Homeland Security publishes the [Uyghur Forced Labor Prevention Act Entities List](#). This list includes entities that mine, produce, and manufacture goods with forced labor, work with the government of Xinjiang to recruit and use forced labor, and source materials from Xinjiang produced using a government-labor scheme.

Inclusion of an entity or product on the lists described above may assist in uncovering forced labor in the supply chain. Accordingly, USAID recipients are strongly encouraged to review the listed entities and products when entering into subawards or contracting with suppliers for materials to be used in the performance of their award. Failure to do so will result in an increased risk of noncompliance with the terms of award. Recipients engaged in projects related to solar energy are specifically encouraged to use maximum diligence due to persistent concerns with the prevalent use of forced labor in solar panel supply chains.

Please direct any questions about this notice to the cognizant Agreement Officer (AO).