



November 2014

HUMAN TRAFFICKING

Oversight of Contractors' Use of Foreign Workers in High-Risk Environments Needs to Be Strengthened

Why GAO Did This Study

Since the 1990s, there have been allegations of abuse of foreign workers on U.S. government contracts overseas, including allegations of TIP. In 2002, the United States adopted a zero tolerance policy on TIP regarding U.S. government employees and contractors abroad and began requiring the inclusion of this policy in all contracts in 2007. Such policy is important because the government relies on contractors that employ foreign workers in countries where, according to State, they may be vulnerable to abuse.

GAO was mandated to report on the use of foreign workers. This report examines (1) policies and guidance governing the recruitment of foreign workers and the fees these workers may pay to secure work on U.S. government contracts overseas and (2) agencies' monitoring of contractor efforts to combat TIP. GAO reviewed a nongeneralizable sample of 11 contracts awarded by DOD, State, and USAID, composing nearly one-third of all reported foreign workers on contracts awarded by these agencies at the end of fiscal year 2013. GAO interviewed agency officials and contractors about labor practices and oversight activities on these contracts.

What GAO Recommends

GAO recommends that agencies (1) develop a more precise definition of recruitment fees and (2) ensure that contract monitoring specifically includes TIP. DOD concurred with the first recommendation, while State and USAID noted that forthcoming regulations would prohibit all recruitment fees. Agencies concurred with the second recommendation.

View [GAO-15-102](#). For more information, contact Thomas Melito at (202) 512-9601 or melitot@gao.gov.

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What GAO Found

Current policies and guidance governing the payment of recruitment fees by foreign workers on certain U.S. government contracts do not provide clear instructions to agencies or contractors regarding the components or amounts of permissible fees related to recruitment. GAO found that some foreign workers—individuals who are not citizens of the United States or the host country—had reported paying for their jobs. Such recruitment fees can lead to various abuses related to trafficking in persons (TIP), such as debt bondage. For example, on the contract employing the largest number of foreign workers in its sample, GAO found that more than 1,900 foreign workers reported paying fees for their jobs, including to recruitment agencies used by a subcontractor. According to the subcontractor, these fees were likely paid to a recruiter who assisted foreign workers with transportation to and housing in Dubai before they were hired to work on the contract in Afghanistan (see figure). Some Department of Defense (DOD) contracting officials GAO interviewed said that such fees may be reasonable. DOD, the Department of State (State), and the U.S. Agency for International Development (USAID) have developed policy and guidance for certain contracts addressing recruitment fees in different ways. However, these agencies do not specify what components or amounts of recruitment fees are considered permissible, limiting the ability of contracting officers and contractors to implement agency policy and guidance.

Sample Recruitment Paths for Foreign Workers on a U.S. Government Contract in Afghanistan



Source: GAO analysis based on Department of Defense and contractor data; Map Resources (map). | GAO-15-102

GAO found that agency monitoring, called for by federal acquisition regulations and agency guidance, did not always include processes to specifically monitor contractor efforts to combat TIP. For 7 of the 11 contracts in GAO's sample, DOD and State had specific monitoring processes to combat TIP. On the 4 remaining contracts, agencies did not specifically monitor for TIP, but rather focused on contractor-provided goods and services, such as building construction. In addition, some DOD and State contracting officials said they were unaware of relevant acquisitions policy and guidance for combating TIP and did not clearly understand their monitoring responsibilities. Both DOD and State have developed additional training to help make contracting officials more aware of their monitoring responsibilities to combat TIP. Without specific efforts to monitor for TIP, agencies' ability to implement the zero tolerance policy and detect concerns about TIP is limited.

Contents

Letter		1
	Background	5
	Current Agency Policy and Guidance on the Payment of Recruitment Fees Do Not Provide Clear Instructions	10
	Agencies' Monitoring of Contractor Labor Practices in Our Sample Varied, but Contractors' Labor Practices Reflect Efforts to Combat TIP	20
	Conclusions	30
	Recommendations for Executive Action	31
	Agency Comments and Our Evaluation	31
Appendix I	Objectives, Scope, and Methodology	35
Appendix II	International Definitions and Indicators of Trafficking in Persons	41
Appendix III	Migrant Workers in Gulf Countries	42
Appendix IV	Federal Acquisition Regulations and Agency Policy and Guidance Related to Contractor Recruitment and Labor Practices	45
Appendix V	Sample Defense Contract Management Agency Universal Examination Record for Combating Trafficking in Persons, May 2011	49
Appendix VI	Comments from the Department of Defense	51
Appendix VII	Comments from the Department of State	53
Appendix VIII	Comments from the U.S. Agency for International Development	57

Appendix IX	GAO Contact and Staff Acknowledgments	60
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Related GAO Products		61
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Tables

Table 1: GAO Sample of U.S. Government Contracts Employing Foreign Workers Overseas	4
Table 2: Migrants in and Tier Placement of Gulf Countries, Afghanistan, and Iraq in 2013	10
Table 3: Varying Levels of Specificity in the FAR and Agency Policy on Recruitment Fees	12
Table 4: GAO Sample of U.S. Government Contracts Employing Foreign Workers Overseas	37
Table 5: Number of Migrants in Gulf Countries from Each of the Top Five Source Countries in 2013	42
Table 6: Agency Policy and Guidance Related to Recruitment and Labor Practices on U.S. Government Contracts	46

Figures

Figure 1: Examples of Different Paths Foreign Workers Take from Their Home Countries to Work on a U.S. Government Contract Overseas	18
Figure 2: Examples of Subcontractor-Provided Housing for Foreign Workers on a Base Operations Support Services Contract in Qatar	27

Abbreviations

CENTCOM	U.S. Central Command
C-JTSCC	U.S. Central Command-Joint Theater Support Contracting Command
DCMA	Defense Contract Management Agency
DOD	Department of Defense
FAR	Federal Acquisition Regulation
ILO	International Labour Organization
IRIS	International Recruitment Integrity System
KSCR	Kuwait-Specific Contract Requirement
SPOT	Synchronized Pre-deployment and Operational Tracker
State	Department of State
TIP	Trafficking in Persons
TVPA	Trafficking Victims Protection Act
USAID	U.S. Agency for International Development

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November 18, 2014

Congressional Committees

The U.S. government relies on contractors to provide services overseas, such as construction, security, and facilities maintenance. In some countries, such as the Gulf countries,¹ where the local labor force is small, or in countries such as Iraq and Afghanistan, where the employment of local labor poses security risks, these contractors rely on foreign workers—individuals who are citizens of neither the United States nor the host country—to perform this work.² According to the Commission on Wartime Contracting in Iraq and Afghanistan, the U.S. government’s reliance on local nationals and foreign workers leads to considerable cost savings compared with the employment of U.S. military personnel or civilians.³ Many foreign workers come from developing countries such as India, Bangladesh, and the Philippines, where job opportunities and wages compare poorly with those in destination countries. The disparities in income levels and the methods used to recruit these workers often make them vulnerable to a variety of labor abuses.

There have been allegations of abuse of foreign workers on government contracts overseas since at least the 1990s. In 2000, Congress enacted the Trafficking Victims Protection Act of 2000 (TVPA) to combat trafficking in persons,⁴ and in 2002, the United States adopted a zero tolerance policy regarding government employees and contractors engaging in trafficking in persons (TIP) abroad.⁵ Since then, Congress and the President have taken further steps to address the issue of trafficking in

¹For the purposes of this report, we use the term “Gulf countries” to refer to the six member states of the Cooperation Council for the Arab States of the Gulf, also known as the Gulf Cooperation Council. These states are Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.

²These workers are alternately referred to as third-country nationals or other-country nationals.

³Commission on Wartime Contracting in Iraq and Afghanistan, *Transforming Wartime Contracting: Controlling Costs, Reducing Risks* (Arlington, Va.: August 2011).

⁴Pub. L. No. 106-386, Div. A, 114 Stat. 1464, 1466-1491, as amended.

⁵The White House, National Security Presidential Directive-22, *Combating Trafficking in Persons* (Washington, D.C.: Dec. 16, 2002).

persons, including through amendments to the TVPA. In 2007, federal acquisition regulations related to combating TIP were amended to require the inclusion of the U.S. government's zero tolerance policy in all government contracts.⁶

In the Violence Against Women Reauthorization Act of 2013, Congress included a requirement for GAO to report on the use of foreign workers both overseas and domestically—including those employed on U.S. government contracts.⁷ This report examines (1) policies and guidance governing the recruitment of foreign workers and the fees these workers may pay to secure work on U.S. government contracts overseas and (2) agencies' monitoring of contractor efforts to combat TIP.⁸

This report focuses on Department of Defense (DOD), Department of State (State), and U.S. Agency for International Development (USAID) contracts with performance in countries with large percentages of foreign workers as compared with local nationals, and in Afghanistan and Iraq, where U.S. government contractors employ significant numbers of foreign workers. We focused on contractor practices related to the recruitment of foreign workers, as well as labor practices such as housing, wages and hours, access to identity documents, and return travel. We selected these practices because they were mentioned explicitly in both recent legislation and an executive order on combating trafficking in persons, and because the International Labour Organization (ILO) has identified potential indicators of TIP related to these practices.⁹

To examine the recruitment of foreign workers and agencies' monitoring of contractor labor practices, we reviewed acquisition regulations, policies, and guidance. We selected a sample of 11 contracts that were

⁶Federal Acquisition Regulation (FAR) § 22.1705. See also FAR clause 52.222-50, Combating Trafficking in Persons; 72 Fed. Reg. 46,431 (requiring the inclusion of the policy in all contracts) (Aug. 17, 2007).

⁷Pub. L. No. 113-4, § 1235, 127 Stat. 54, 146.

⁸This report addresses the use of foreign workers for labor on U.S. government contracts overseas. GAO is scheduled to issue a separate report in early 2015 focusing on the recruitment and use of foreign workers within the United States.

⁹The ILO is a tripartite United Nations agency with government, employer, and worker representatives. The ILO's mission includes promoting fundamental rights at work, creating opportunities for decent employment and income, and enhancing social protection.

active at the end of fiscal year 2013, based on the contracts' place of performance, value, type of service provided, and the number of foreign workers employed to reflect a range of agencies, countries, and services. We conducted structured interviews with agency contracting officials, contractors, and, in some cases, interviewed the subcontractors responsible for these contracts.¹⁰ The contracts in our sample represent nearly one-third of all reported foreign workers employed on contracts awarded by these three agencies as reported in the Synchronized Pre-deployment and Operational Tracker (SPOT) database at the end of fiscal year 2013.¹¹ The results of our structured interviews are not generalizable but provided us with insights about contractor recruitment practices and efforts to combat TIP, as well as agencies' monitoring of these efforts. Table 1 provides basic information on these contracts. In addition, we conducted fieldwork in Afghanistan, Kuwait, and Qatar, where we spoke with contracting officials, contractors, and subcontractors regarding contracts in our sample, and in Jordan, where we spoke with State and USAID officials to inform our research design and methodology. We also spoke with other DOD, State, and USAID officials; host government officials; and local nongovernmental organizations to obtain a broader view about labor practices and efforts to combat TIP in these countries. We chose these countries based on the range of U.S. government activities in these countries, the prevalence of foreign workers, and State's assessment of the host government's efforts to combat TIP. Furthermore, we interviewed contracting officials, acquisition policy

¹⁰For the purposes of this report, we use the term "agency contracting officials" to refer to individuals involved in the award, administration, and monitoring of government contracts. These officials include the contracting officer and the contracting officer's representative, among others. The contracting officer is a U.S. government employee who has the authority to enter into, administer, or terminate contracts and make related determinations. The contracting officer is responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships. The contracting officer's representative is designated in writing by the contracting officer to perform specific technical or administrative functions. Unlike the contracting officer, a contracting officer's representative has no authority to make any commitments or changes that affect price, quality, quantity, delivery, or other terms and conditions of the contract and cannot direct the contractor or its subcontractors to operate in conflict with the contract terms and conditions.

¹¹While our previous work has described data limitations related to SPOT, we found these data sufficiently reliable for the purposes of identifying and selecting contracts employing large numbers of foreign workers to review. App. I provides further information about our methodology.

officials, and officials responsible for coordinating agencies' efforts to combat TIP in the United States. The contract employing the largest number of foreign workers in our sample included a requirement for the contractor to report certain data related to alleged violations of the government's zero tolerance policy on TIP; we analyzed these data, including reports of foreign workers paying for their jobs, to demonstrate the prevalence and relative amounts of these payments. Appendix I provides more information on our scope and methodology.

Table 1: GAO Sample of U.S. Government Contracts Employing Foreign Workers Overseas

Contract description	Contracting agency	Place of performance	Services provided	Total obligations as of fiscal year 2014 (Dollars in millions)	Peak number of foreign workers
Logistics Civil Augmentation Program IV, Task Order 5 (Afghanistan)	DOD/Army	Afghanistan	Facilities support	\$8,714	9,807
Field and Installation Readiness Support Team	DOD/Army	Afghanistan	Facilities support	\$1,417	3,658
Army Pre-positioned Stocks-5	DOD/Army	Kuwait	Facilities support	\$1,022	2,570
Qatar - Base Operations Support Services	DOD/Army	Qatar	Facilities support	\$174	650
Logistics Civil Augmentation Program IV, Task Order 5 (Bahrain)	DOD/Army	Bahrain	Facilities support	\$48	323
Coalition Compound Construction	DOD/U.S. Army Corps of Engineers	Qatar	Construction	\$45	391
Full Line Food and Beverage Support	DOD/Defense Logistics Agency	Kuwait/Iraq/Jordan	Food services	\$1,092	1,889
Worldwide Protective Services-Baghdad	State	Iraq	Security	\$608	1,410
Operations and Maintenance Support Services	State	Iraq	Facilities support	\$150	432
Embassy Doha Local Guard Force	State	Qatar	Security	\$6 ^a	70
Kandahar-Helmand Power Project	USAID	Afghanistan	Construction	\$227	41

Sources: Department of Defense (DOD), Department of State (State), and U.S. Agency for International Development (USAID). Data on peak number of foreign workers provided by contractors. | GAO-15-102

^aContract value at time of award.

We conducted this performance audit from June 2013 to November 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our

findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Definition of Trafficking in Persons

Human trafficking—the worldwide criminal exploitation of men, women, and children for others’ financial gain—is a violation of human rights. Victims are often lured or abducted and forced to work in involuntary servitude. Although the crime of human trafficking can take different forms in different regions and countries around the world, most human trafficking cases follow a similar pattern. Traffickers use acquaintances or false advertisements to recruit men, women, and children in or near their homes, and then transfer them to and exploit them in another city, region, or country. The U.S. government defines severe forms of trafficking in persons to include the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.¹² International organizations have also defined trafficking in persons and developed a list of indicators of trafficking for labor exploitation.¹³ Appendix II describes these efforts in more detail.

Congress and others have highlighted the role that deceptive recruitment practices can play in contributing to trafficking in persons. Workers who pay for their jobs are at an increased risk for human trafficking and other

¹²The Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, codified as amended at 22 U.S.C. §§ 7101-10. The TVPA defines the term “debt bondage” as the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined. According to the TVPA, severe forms of trafficking also include sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.

¹³For an example of a definition of trafficking in persons, see 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*, 2237 U.N.T.S. 319 (Vienna: Nov. 15, 2000). The United States became a party in 2005.

labor abuses. State's Inspector General has reported that such recruitment fees, which can amount to many months' salary, are a possible indicator of coercive recruitment and may indicate an increased risk of debt bondage, as some workers borrow large sums of money to pay the recruiter.¹⁴ A 2011 ILO survey of workers in Kuwait and the United Arab Emirates found that the recruitment fees and interest on loans may limit workers' ability to negotiate the terms of their work contracts.¹⁵ This debt burden can result in involuntary servitude through excessive work hours or virtually no pay for months to recover the advance payments of fees and interest.

U.S. Government Approach to Trafficking in Persons in Acquisitions Policy

Since 2007, the Federal Acquisition Regulation (FAR) has required all U.S. government contracts to include a clause citing the U.S. government's zero tolerance policy regarding TIP. This clause prohibits contractors from engaging in severe forms of trafficking, procuring commercial sex acts, or using forced labor during the period of performance of the contract.¹⁶ In addition, this clause establishes several contractor requirements to implement this policy, such as notifying the contracting officer of any information that alleges a contractor employee, subcontractor, or subcontractor employee has engaged in conduct that violates this policy and adding this clause in all subcontracts.

In 2012, Congress and the President took further steps to reduce the risk of trafficking on U.S. government contracts. The TVPA, as amended,¹⁷ and an executive order¹⁸ both address acts related to TIP, such as denying foreign workers access to their identity documents and failing to pay for return travel for foreign workers. In September 2013, amendments

¹⁴United States Department of State and the Broadcasting Board of Governors Office of the Inspector General, *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 (Arlington, Va.: January 2011).

¹⁵ILO, Kuwait Economic Society, University of Sharjah, *Travels of Hope, Toils of Despair: The Lives of Migrant Workers in the Gulf States* (Geneva: December 2011).

¹⁶FAR § 22.1705. See also FAR clause 52.222-50, Combating Trafficking in Persons.

¹⁷National Defense Authorization Act for Fiscal Year 2013, Pub. L. No. 112-239, § 1702, codified at 22 U.S.C. § 7104(g).

¹⁸*Strengthening Protections Against Trafficking in Persons in Federal Contracts*, Exec. Order 13627, 77 Fed. Reg. 60,029 (Oct. 2, 2012).

to the FAR were proposed to implement the requirements of the 2013 amendments to the TVPA and the executive order related to strengthening protections against trafficking in persons.¹⁹ As of October 2014, these proposed amendments to the FAR are still under review.

Agencies also have developed their own acquisition policies and guidance to augment the FAR that aim to protect foreign workers on specific contracts. Many of these policies and much of this guidance include requirements related to recruitment and other labor practices, including housing, wages, and access to identity documents.

- DOD policy is intended to deter activities of a variety of actors, including contractor personnel, that would facilitate or support TIP.²⁰ A region-specific DOD acquisition policy that addresses combating TIP has evolved in recent years and has applied to different places of performance at different times.²¹ Currently, this policy requires the insertion of a clause to combat TIP into certain service and construction contracts that require performance in Iraq or Afghanistan.
- In 2011 and 2012, State issued acquisition guidance, applicable to all domestic and overseas contracting activities, on how to monitor contracts for TIP compliance and to provide a clause and procedures to reduce the risk of abusive labor practices that contribute to the potential for TIP. Among other things, this guidance requires contracting officers to require offerors to include information related to the recruitment and housing of foreign workers in their proposals for certain contracts.²²

¹⁹78 Fed. Reg. 59,317 (Sept. 26, 2013). See also proposed rule to amend Department of Defense Federal Acquisition Regulation Supplement intended to supplement these changes to the Federal Acquisition Regulations. 78 Fed. Reg. 59,325 (Sept. 26, 2013).

²⁰DOD, DOD Instruction 2200.01, *Combating Trafficking in Persons* (Arlington, Va.: Sept. 15, 2010).

²¹For example, see U.S. Central Command (CENTCOM)-Joint Theater Support Contracting Command (C-JTSCC) Acquisition Instruction (Sept. 1, 2011) and related C-JTSCC Clause 952.222-0001, Prohibition Against Human Trafficking, Inhumane Living Conditions, and Withholding of Employee Passports. Previously, similar clauses, such as Kuwait-Specific Contract Requirement (KSCR) 1-2, Prohibition Against Human Trafficking, Inhumane Living Conditions, and Withholding of Employee Passports, were to be included in certain contracts whose place of performance was Iraq, Kuwait, or Pakistan.

²²Department of State, Procurement Information Bulletins No. 2011-09, *Combating Trafficking in Persons* (Sept. 19, 2012), and No. 2012-10, *Contractor Recruitment of Third-Country Nationals* (Arlington, Va.: Oct. 17, 2012).

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- In 2012, USAID issued guidance reminding contracting officials of their responsibilities to implement TIP requirements and requiring officials to, among other things, discuss issues such as access to certain documents and understanding local labor laws with contractors following contract award.²³

Use of Subcontractors

Subcontracting is an acquisition practice in which the vendor with the direct responsibility to perform a contract, known as the prime contractor, enters into direct contracts with other vendors, known as subcontractors, to furnish supplies or services for the performance of the contract. This practice can help contractors to consider core competencies and supplier capabilities to achieve efficiencies from the marketplace. In some cases, prime contractors use subcontractors to supply labor on government contracts, and these subcontractors may use second-tier subcontractors or recruitment agencies to identify prospective employees. Our prior work has shown that government visibility into subcontracts is generally limited.²⁴ Government agencies have a direct relationship only with the prime contractor, and generally “privity of contract” limits the government’s authority to direct subcontractors to perform tasks under the contract.²⁵ As a result, agencies generally do not monitor subcontractors directly, as they expect the prime contractor to monitor its subcontractors. Further, the FAR notes the prime contractor’s responsibility in managing its subcontractors, and officials have underscored the limited role of the government in selecting and managing subcontracts.

Foreign Workers on U.S. Government Contracts Overseas

Contractors performing U.S. government contracts overseas operate under local conditions and in accordance with local labor practices. In Gulf countries, contractors employ large numbers of foreign workers, who make up a significant portion of the local labor force. These workers

²³USAID, Procurement Executive’s Bulletin No. 2012-07, *Combating Trafficking in Persons (TIP)*.

²⁴GAO, *Defense Acquisitions: Additional Guidance Needed to Improve Visibility into the Structure and Management of Major Weapon System Subcontracts*, [GAO-11-61R](#) (Washington, D.C.: Oct. 28, 2010).

²⁵“Privity of contract” describes the legal relationship between parties to the same contract. It is commonly understood to mean that the government’s contractual relationship is with the prime contractor, not with subcontractors.

typically come from countries such as India, Bangladesh, and the Philippines for economic reasons. According to State and the ILO, several common and restrictive labor practices in Gulf countries stem from these countries' sponsorship system, which limits workers' freedom of movement. Appendix III provides further detail on the prevalence of foreign workers in Gulf countries, as well as efforts to regulate this migration of workers in home and destination countries. State's 2014 *Trafficking in Persons Report* found that certain labor practices in the Middle East, including Kuwait, Qatar, and Bahrain, can render foreign workers susceptible to severe forms of trafficking in persons.²⁶

In addition, U.S. government contractors in Iraq and Afghanistan often employ foreign workers for cost and security reasons. As of July 2014, DOD reported nearly 17,000 foreign workers on contracts in Afghanistan, approximately one-third of the department's total contractor workforce in that country. Although DOD reports that it no longer has foreign workers in Iraq, it reported more than 40,000 foreign workers on DOD contracts in Iraq—nearly 60 percent of its total contractor workforce in the country—as of January 2011. State contractors currently employ foreign workers in Iraq for security and operations and maintenance services. GAO and others have reported that operating in insecure environments can hinder agencies' ability to monitor contracts, including efforts to combat TIP, because of the general absence of security, among other factors.²⁷ Table 2 shows the prevalence of migrants in Gulf countries, Afghanistan, and Iraq, as well as State's *Trafficking in Persons Report* tier placement for 2014, which illustrates areas where the risk of TIP is high.

²⁶U.S. Department of State, *Trafficking in Persons Report* (Washington, D.C.: June 2014). This annual report contains information on countries' efforts to combat TIP, placing each country on one of four tiers based on the extent of their governments' efforts to comply with the TVPA's minimum standards for the elimination of human trafficking.

²⁷GAO, *Contingency Contracting: State and USAID Made Progress Assessing and Implementing Changes, but Further Actions Needed*, [GAO-14-229](#) (Washington, D.C.: Feb. 14, 2014), and Congressional Research Service, *Trafficking in Persons: International Dimensions and Foreign Policy Issues for Congress*, R42497 (Washington, D.C.: Jan. 9, 2013).

Table 2: Migrants in and Tier Placement of Gulf Countries, Afghanistan, and Iraq in 2013

Country	Migrants as a percentage of total population ^a	Total number of migrants ^a	Trafficking in Persons Report tier placement (2014) ^b
United Arab Emirates	83.7%	7,826,981	2
Qatar	73.8%	1,600,955	2 Watch List
Kuwait	60.2%	2,028,053	3
Bahrain	54.7%	729,357	2 Watch List
Saudi Arabia	31.4%	9,060,433	3
Oman	30.6%	1,112,032	2
Afghanistan	not available	not available	2
Iraq	not available	not available	2

Sources: United Nations, Department of Economic and Social Affairs. *Trends in International Migrant Stock: the 2013 revision*; Department of State *Trafficking in Persons Report*, 2014. | GAO-15-102

^aThese data do not include the number of foreign workers in each country but rather reflect the number of overall migrants, including children, to each country.

^bIn the report, Tier 1 countries fully comply with the Trafficking Victims Protection Act's minimum standards for the elimination of human trafficking; Tier 2 countries do not fully comply with the minimum standards, but are making significant efforts to bring themselves into compliance; Tier 2 Watch List countries do not fully comply with the minimum standards, but are making significant efforts to bring themselves into compliance, among other criteria; and Tier 3 refers to countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.

Current Agency Policy and Guidance on the Payment of Recruitment Fees Do Not Provide Clear Instructions

Agency policy and guidance on combating trafficking in persons has attempted to address the payment of recruitment fees by foreign workers on certain U.S. government contracts. However, current policy and guidance does not specifically define the components or amount of permissible fees related to recruitment. Agency officials and contractors said that without an explicit definition of what constitutes a recruitment fee, they may not be able to effectively implement existing policy and guidance on this issue. Despite efforts to prohibit or restrict the payment of recruitment fees, we found that some foreign workers on U.S. government contracts have reported paying for their jobs. Prime contractor reliance on subcontractors for recruitment of foreign workers further limits visibility into recruitment fees.

The FAR and Agency Policy and Guidance Lack Specificity Regarding Recruitment Fees

The FAR provides broad prohibitions against contractors engaging in trafficking but does not explicitly address the payment of recruitment fees. The FAR prohibits contractors from engaging in severe forms of trafficking, including recruitment of a person for labor or services through the use of force, fraud, or coercion for the purposes of subjection to debt bondage, but it does not address more specific issues related to how contractors recruit foreign workers, such as recruitment fees.

Some agencies have developed policy and guidance that address certain recruitment issues more specifically. Although DOD's department-wide guidance on combating TIP does not explicitly address recruitment, its current region-specific policy requires certain services and construction contracts in Afghanistan to include a clause requiring contractors to avoid using unlicensed recruitment firms or firms that charge illegal recruitment fees.²⁸ However, this policy does not define "illegal" recruitment fees. State's 2012 guidance required certain contracts to include a clause requiring contractors to submit, as part of their proposals, recruitment plans that must state that employees will not be charged any recruitment or similar fees and that contractors and subcontractors will use only bona fide licensed recruitment companies.²⁹ USAID's 2012 guidance on combating trafficking in persons reminds officials of the FAR requirements, but it provides no further guidance on the recruitment of foreign workers for work on USAID contracts. Table 3 illustrates how the FAR and agency policy and guidance address recruitment fees with varying levels of specificity.

²⁸C-JTSCC Clauses 952.222-0001 and 5152.222-5900, Prohibition Against Human Trafficking, Inhumane Living Conditions, and Withholding of Employee Passports. Officials stated that a similar clause, KSCR1-2, was included in another contract in our sample whose place of performance was Kuwait. Furthermore, on one contract in Qatar, the contractor stated in its proposal that it would ensure compliance with C-JTSCC clause 952.222-0001, even though it was not required for contracts in Qatar.

²⁹Department of State, Procurement Information Bulletin No. 2012-10, *Contractor Recruitment of Third-Country Nationals* (Arlington, Va.: Oct. 17, 2012).

Table 3: Varying Levels of Specificity in the FAR and Agency Policy on Recruitment Fees

Federal Acquisition Regulation (FAR): FAR § 22.1705(a) and Clause 52.222-50 No explicit discussion of recruitment fees. ^a
Department of Defense policy: U.S. Central Command-Joint Theater Support Contracting Command (C-JTSCC) Acquisition Instruction and Clauses 952.222-0001 and 5152.222-5900 Prohibits the use of unlicensed recruiting firms or firms that charge <i>illegal</i> recruiting fees.
State guidance: Procurement Information Bulletin No.2012-10 Offerors are to be required to submit a recruitment plan as part of the proposal that states that the recruited employee will not be charged recruitment or any similar fees.
USAID guidance: Procurement Executive's Bulletin No. 2012-07 No explicit discussion of recruitment fees.

Source: GAO analysis of the FAR, C-JTSCC Acquisition Instruction, State Procurement Information Bulletin 2012-10, and U.S. Agency for International Development (USAID) Procurement Executive's Bulletin 2012-07. | GAO-15-102

^aIn September 2013, amendments to the FAR were proposed to implement the requirements of the 2013 amendments to the Trafficking Victims Protection Act and the executive order related to strengthening protections against trafficking in persons, including the issue of recruitment fees.

We found that some agency officials, both on contracts in our sample and on others, and contractors in our sample did not have a common understanding of what constitutes a permissible fee related to recruitment—in terms of components or amount—or whether contractors or subcontractors at any level were permitted to charge such fees to recruited employees. According to GAO's standards for internal control, information should be recorded and communicated to management and others in a form that enables them to carry out their internal control and other responsibilities.³⁰ Currently, agency contracting officials lack policy or guidance that specifies what components are considered to be recruitment fees and may not be able to determine which fees are permissible, hindering their ability to carry out their responsibilities. For example, neither the FAR nor agency policy or guidance specifies what components are considered to constitute recruitment fees, but these fees could include air tickets, lodging, passport and visa fees, or medical screening, among other expenses. One subcontractor who hires foreign workers in Dubai for work in Afghanistan said that the definition of recruitment fees is imprecise and varies widely within the contracting community. He added that he believed every foreign worker hired in

³⁰GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: Nov. 1, 1999).

Dubai for this contract had paid someone some type of fee for his or her job, but the fee could have included airfare from the home country to Dubai, housing and food in Dubai, or a commission for the recruiter, any of which may be legal. In addition, the Qatari Under Secretary of Labor noted that Qatari law prohibits recruitment fees, but he and State and DOD officials in Qatar acknowledged that most foreign workers are initially recruited in their home countries, where such fees may or may not be allowed. Without explicit definitions of what, if anything, constitute permissible fees related to recruitment, contractors said that they could not ensure that they were in compliance with contractual requirements. DOD contracting officials in Kuwait said that a definition of recruitment fees would improve their ability to implement the government's antitrafficking policy.

The President and Congress have both directed that the FAR be amended to address several issues related to trafficking, including the payment of recruitment fees. The 2012 executive order directed amendments to the FAR that would expressly prohibit federal contractors from charging employees *any* recruitment fees,³¹ while amendments to the TVPA in 2013 allow the government to terminate a contract if contractors, subcontractors, labor brokers, or other agents charge *unreasonable* placement or recruitment fees.³² Public comments on the proposed FAR rule have noted that the FAR Council will have to reconcile these prohibitions, deciding whether to prohibit all recruitment fees or only unreasonable ones and defining what is considered unreasonable.³³

Other Entities Provide Definitions of Permissible Recruitment Fees

The TVPA states that unreasonable placement or recruitment fees include fees equal to or greater than the employee's monthly salary, or recruitment fees that violate the laws of the country from which an employee is recruited.³⁴ The Department of Labor and foreign

³¹ *Strengthening Protections Against Trafficking in Persons in Federal Contracts*, Exec. Order 13627, 77 Fed. Reg. 60,029 (Oct. 2, 2012).

³² Pub. L. No. 112-239, §§ 1702, 1708(c).

³³ The FAR Council assists in the direction and coordination of government-wide procurement policy and government-wide procurement regulatory activities in the federal government. 41 U.S.C. § 1302.

³⁴ Pub. L. No. 112-239, § 1702.

governments have also defined permissible fees paid by workers to their employers.

- A Department of Labor regulation relating to assurances that employers must provide in seeking to employ certain temporary foreign workers in the United States allows for reimbursements from workers for costs that are the responsibility and primarily for the benefit of the worker, such as government-required passport fees.³⁵
- The government of India permits recruiting agents to recover service charges from workers of up to the equivalent of 45 days' wages, subject to a maximum of 20,000 rupees (currently about \$325), according to India's Ministry of Overseas Indian Affairs.
- The government of the Philippines permits recruiters to charge its hired workers a placement fee in an amount equivalent to 1 month's salary, excluding documentation costs such as expenses for passports, birth certificates, and medical examinations, according to the Philippine Overseas Employment Administration.
- The International Organization for Migration, with others, has established the International Recruitment Integrity System (IRIS), which is a voluntary consortium of stakeholders including recruitment and employment agents. Members of IRIS are prohibited from charging any recruitment fees to job seekers.

Senior acquisition officials expressed conflicting views regarding the feasibility of prohibiting recruitment fees. Senior officials in State's Office of the Procurement Executive stated that they would prefer that all recruitment fees be prohibited, in line with the executive order, to eliminate any uncertainty or ambiguity among contracting officials. They said that they had consulted State's Office to Monitor and Combat Trafficking in Persons, which took the same position of the Office of the Procurement Executive given that such fees create vulnerability among workers and often are the precursor to debt bondage. These officials further stated that the term "reasonable recruitment fees" was difficult to define and apply in practice. In public comments on the proposed FAR rule, one nongovernmental organization noted that "the definition of reasonableness is amorphous and is unduly burdensome on private industry to enforce." Other officials, including DOD contracting officials in Kuwait, stated that it may be reasonable for employees to pay a fee for a job in some cases, echoing the recent amendment to the TVPA. They

³⁵20 C.F.R. § 655.135(j).

noted that eliminating these fees would be nearly impossible, and that recruiters would pass these fees on to workers in some other form if recruitment fees were explicitly banned. DOD Joint Staff officials added that the elimination of recruitment fees will cause contractors to change the name from recruitment fees to travel or per diem fees to cover air travel, housing and food, thus a precise definition of these fees that specifically addresses travel costs is needed. A subcontractor supplying foreign workers on the largest contract in our sample said that its recruitment agencies likely charge fees to recruits for services such as air tickets, housing, and food, which the subcontractor deemed reasonable. However, according to senior State, DOD, and contractor officials, regardless of whether recruitment fees are banned in their entirety or only when unreasonable, the ability of contracting officers and contractors to implement this restriction will be limited until recruitment fees, including what is considered permissible, are defined in regulation, guidance, or policy.

**Some Foreign Workers
Employed on U.S.
Contracts Paid
Recruitment Fees to
Subcontractors or
Recruitment Agencies**

On at least two contracts in our sample, including the one employing the largest number of foreign workers, contractors reported that workers have paid for their jobs. We found that, on the largest contract in our sample, employing nearly 10,000 foreign workers in Afghanistan, recruitment agencies have likely charged fees to some foreign workers. On this contract, the prime contractor uses several subcontractors to supply labor, including one that hires workers through more than 10 recruitment agencies in Dubai. We found that from September 2012 through April 2014, more than 1,900 subcontractor employees reported to the prime contractor that they had paid fees for their jobs, including to recruitment agencies with which the subcontractor had a recruitment agreement. For 2012 and 2013, recruitment agencies used by this subcontractor signed statements acknowledging that they would not charge any recruitment fees to candidates facilitated as part of their agreements with the subcontractor. In April 2014, the last month for which data were available, 82 workers reported having paid an average of approximately \$3,000 to get their jobs. The fees that these workers reported paying averaged approximately 5 months' salary and, in one case, amounted to more than

1 year's salary.³⁶ According to the subcontractor who employed all 82 of these workers, these fees were likely paid to an agent who assisted foreign workers with transportation and housing prior to being hired for work on the U.S. government contract. Although the prime contractor provided DOD information about reported fees, neither DOD nor the prime contractor took further action because the allegations did not involve the prime contractor or its subcontractor.

On another DOD services contract in Afghanistan, we found that the contractor modified its subcontract with a recruiter in January 2014 to clarify that the contractor would pay recruitment fees previously charged to foreign workers—\$670 per worker. The contractor reported that this modification to the subcontract was a result of its interpretation of the FAR clause prohibiting TIP. According to the contractor, the contracting agency had not directed it to make this modification; it made this change on its own initiative to prevent potential TIP abuses in the performance of the contract.

These practices may be long-standing and widespread in Gulf countries. In January 2011, the State Inspector General reported in an evaluation of efforts to combat TIP on contracts in four Gulf countries that a substantial portion of the workers they interviewed had obtained their jobs by paying a recruitment agency in their country of origin. Some of these workers reported paying more than 1 year's salary in such fees.³⁷

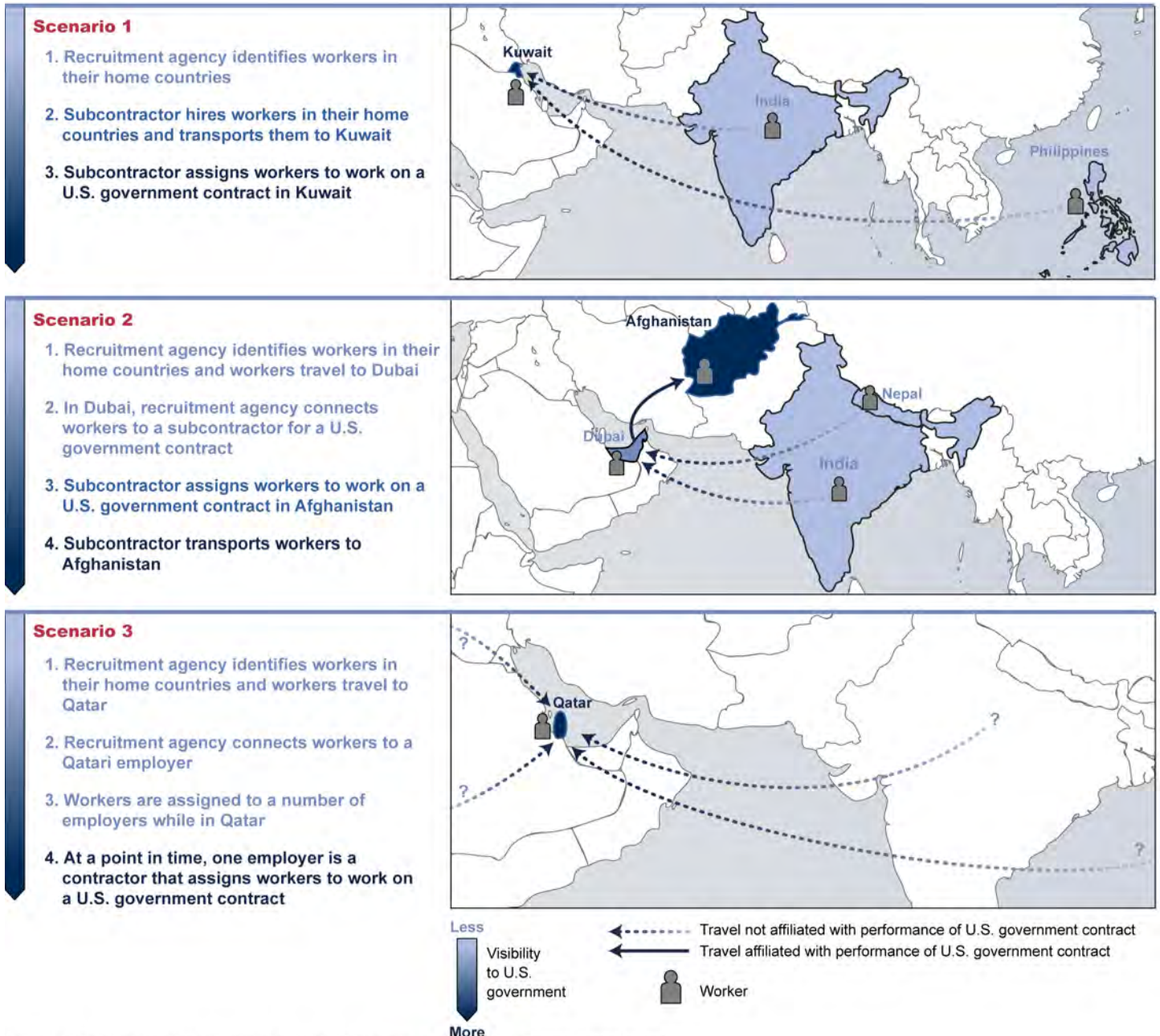
³⁶These 82 workers reported paying fees as early as October 2010. We compared the fees reported in April 2014 with the workers' April 2014 salaries, as reported by the prime contractor. According to our analysis of these data provided by the prime contractor, these fees ranged from \$500 to \$5,000, with a mean and median fee of about \$3,000. In comparison, the prime contractor reported that the average monthly base salary in April 2014 for these workers was about \$650 and ranged from less than \$400 to about \$1,250.

³⁷United States Department of State and the Broadcasting Board of Governors Office of the Inspector General, *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 (Arlington, Va.: January 2011). For this review, the Inspector General interviewed a nongeneralizable sample of workers in Kuwait, Oman, Saudi Arabia, and the United Arab Emirates.

Prime Contractors Used Subcontractors to Recruit Foreign Workers, and Some Did Not Know if Recruitment Fees Were Paid

Nearly all prime contractors in our sample reported that they generally used subcontractors or recruitment agencies to recruit foreign workers, and some reported that their knowledge about the payment of recruitment fees is limited. These subcontractors generally recruited foreign workers either from their home countries or in host countries where they may have lived and worked for an extended period of time. In other cases, subcontractors recruited workers in a third country, neither their home country nor the host country, and then transported them to the contract location. Figure 1 illustrates a variety of potential paths a foreign worker may take to be recruited for work on a U.S. government contract overseas.

Figure 1: Examples of Different Paths Foreign Workers Take from Their Home Countries to Work on a U.S. Government Contract Overseas



Source: GAO analysis based on Department of Defense and contractor data; Map Resources (maps). | GAO-15-102

For foreign workers recruited in their home countries, prime contractors in our sample reported that they often used subcontractors who relied on recruitment agencies to identify workers. Since prime contractors do not have a direct relationship with these recruitment agencies, their visibility into these agencies' practices, including whether the agencies charged workers recruitment fees, was limited. For foreign workers recruited in host countries, prime contractors in our sample reported that they typically also used subcontractors to identify workers. When foreign workers are already living in the host country, prime contractors may not know whether these workers paid recruitment fees when they first came to the host country. For example, one subcontractor that employs more than 2,500 foreign workers in Afghanistan said that it hired foreign workers from the previous contractor and did not know whether these workers had paid recruitment fees previously.

The following examples illustrate how contractors use subcontractors to recruit foreign workers and their limited knowledge about recruitment fees:

- On a DOD services contract in Kuwait, a local subcontractor recruited, employed, and housed foreign workers supporting the prime contract. According to the subcontractor, some employees were recruited from an existing pool of foreign workers living in Kuwait. The prime contractor reported that it did not monitor the subcontractor's recruitment practices, including if recruitment fees were paid by foreign workers in this existing pool (see scenario 1, fig. 1).
- On a DOD services contract in Afghanistan, the prime contractor used a subcontractor to supply labor. This subcontractor recruited workers in Dubai using several recruitment agencies. In some instances, these agencies identified workers in countries such as India and Nepal and transported them to Dubai. As noted above, many workers on this contract reported having paid for their jobs, but the prime contractor did not investigate these reports because they did not involve the prime contractor or its subcontractors (see scenario 2, fig. 1).
- On a DOD construction contract in Qatar, the prime contractor used a subcontractor that maintained a pool of foreign workers in Qatar who were originally identified by recruitment agencies in source countries such as Sri Lanka, Nepal, India, and Jordan. The prime contractor reported that it had no way of knowing how these workers had been initially recruited, including if they had paid any recruitment fees (see scenario 3, fig. 1).
- On a State services contract in Iraq, the prime contractor said that it did not use subcontractors. Instead, it transferred workers from

another contract it was supporting in Djibouti and also employed several foreign workers from the contractor that had previously performed this work for DOD. Consequently, most workers had already been recruited before contract award.

- On a State security contract in Iraq, the prime contractor used subcontractors in Kenya and Uganda to recruit foreign workers. According to the prime contractor, subcontractors were paid a fixed fee for each worker it hired and the prime contractor did not believe workers paid a separate fee for these services.

Agencies' Monitoring of Contractor Labor Practices in Our Sample Varied, but Contractors' Labor Practices Reflect Efforts to Combat TIP

The FAR and DOD, State, and USAID guidance outline requirements for monitoring contractor labor practices, and DOD and State had processes for monitoring these practices and efforts to combat TIP on some contracts in our sample. However, we found that DOD, State, and USAID did not specifically monitor these practices on other contracts, hindering their ability to detect potential TIP abuses and implement the U.S. government's zero tolerance policy. For example, we found that agencies did not specifically monitor for labor practices on some contracts, but rather focused on contractor-provided goods and services, such as building construction. The FAR and agency policy and guidance require the use of contract clauses that outline contractor responsibilities related to labor practices in areas such as wages and hours, housing, access to identity documents, and return travel, which have been linked to TIP abuses by the U.S. government and international organizations. All contractors in our sample reported to us that their practices reflect efforts to combat TIP.

Agencies Monitored Contractor Labor Practices on Some Contracts in Our Sample but Not on Others

The FAR and agency policy and guidance outline requirements for DOD, State, and USAID to monitor contractor labor practices. For some contracts in our sample, DOD and State had specific processes to monitor efforts to combat TIP. On other contracts, however, neither DOD, nor State, nor USAID had such specific processes and focused their monitoring on contractor-provided goods and services. In addition, some agency contracting officials indicated that they were unaware of their monitoring responsibilities to combat TIP.

Federal Acquisition Regulations and Agency Guidance Include Instructions on Monitoring Contractor Labor Practices

Federal acquisition regulations and agency guidance provide instructions for agencies to monitor contractor labor practices. The FAR requires that agencies conduct contract quality assurance activities as necessary to determine that supplies or services conform to contract requirements, which would include requirements related to efforts to combat TIP.³⁸ In addition, DOD guidance states that quality assurance surveillance plans should describe how the government will monitor a contractor's performance regarding trafficking in persons.³⁹ State's guidance requires contracting officials to document a monitoring plan to combat TIP, obtain information on employer-furnished housing and periodically visit to ensure adequacy, and verify that the contractor does not hold employee passports or visas. Finally, USAID guidance requires contracting officials to monitor all awards to ensure compliance with TIP requirements. Specifically, the guidance states that officials should conduct appropriate site visits and employee interviews to verify that the contractor does not hold employee passports, among other things.

DOD and State Have Developed Specific Processes for Monitoring Contractor Labor Practices on Some Contracts

DOD and State have developed specific processes for monitoring contractor labor practices, including efforts to combat TIP, for some contracts in our sample. Specifically, DOD developed a process for monitoring efforts to combat TIP for five of the seven DOD contracts included in our sample, all of which were awarded by the Army Contracting Command, and State had a TIP-specific process for two of the three State contracts in our sample. On the other four contracts in our sample, DOD, State, and USAID did not monitor specifically for TIP because of a focus on contractor provided goods and services, as discussed in the next section.

For DOD, the Defense Contract Management Agency (DCMA)⁴⁰ administered four contracts in Afghanistan, Kuwait, and Qatar and used a checklist to help it conduct systematic audits of contractor compliance with certain requirements related to labor practices and efforts to combat

³⁸FAR § 46.401.

³⁹DOD, *Department of Defense Procedures, Guidance, and Information* § 222.1703(4).

⁴⁰DCMA is responsible for providing contract administration services for DOD buying activities, working directly with defense contractors to help ensure that goods and services are delivered on time, at projected cost, and that they meet performance requirements. In addition, as a designated combat support agency, DCMA is tasked with providing contract administration and support to combatant commanders during contingency operations.

TIP.⁴¹ (See app. V for a sample checklist used by DCMA in Afghanistan.) DCMA's checklist included questions about foreign worker housing, employment contracts, and policies and procedures for reporting potential TIP abuses. DCMA also interviewed a sample of foreign workers to further validate contractor compliance with requirements related to combating TIP. For example, in Kuwait, DCMA inspectors asked workers about wages, hours, overtime, identity documents, and return travel. The inspectors asked workers how the contractor paid their wages, if the contractor held their passports, and if the contractor paid for their return travel. DCMA documented contractor noncompliance with contract requirements related to labor practices and efforts to combat TIP through corrective action requests.⁴² DCMA issued such requests related to contractor labor practices—including housing, wage, and TIP issues—on three out of the four contracts it was responsible for administering in our sample. According to agency officials, none of these requests was issued in response to a serious or unacceptable contract violation. For example, on a facilities support contract in Afghanistan, the contractor was issued a corrective action request in January 2012 for not providing foreign workers an employment contract in their native language. This request was closed in December 2012 after the contractor provided DCMA a corrective action plan.

DCMA officials stated that it is transitioning its contract administration responsibilities, including its process for monitoring efforts to combat TIP in Iraq and Afghanistan, to the military services. In 2009, DOD directed selected contract administration service tasks to be transferred from DCMA to the military services. Although DCMA continued to administer selected contracts until after the beginning of fiscal year 2014, DCMA officials said that it is currently developing a plan to transition contract administration responsibilities to the military services, including the Army's contracts in Kuwait, Qatar, and Afghanistan.

⁴¹DCMA also administered a DOD contract in Bahrain, but did not use the same checklist to help it conduct these audits. However, DCMA did not report any concerns related to contractor compliance with certain requirements related to labor practices and efforts to combat TIP.

⁴²DCMA used corrective action requests to document contractual non-compliance issues ranging from minor to unacceptable. These requests are intended to bring deficiencies to the contractor's attention for appropriate action.

State monitored contract requirements related to labor practices and efforts to combat TIP for two contracts in our sample in Iraq. For a security contract, State used an inspection checklist to help it monitor contractor compliance with these requirements. This checklist included verification of wages and access to identity documents, as well as other labor practices. State officials responsible for monitoring this contract conducted monthly foreign worker housing inspections and verified that workers (1) willingly accepted their living and working conditions, (2) were paid in accordance with the terms of their employment contracts, (3) had access to their passports, (4) had access to their employment contracts and fully understood them, and (5) were free to end their employment contracts at any time, acknowledging that certain penalties may apply. On another services contract, State's Contract Management Office—a regional office established in August 2013 to improve management and oversight of contract performance of major contracts in Iraq—used in-country interviews of foreign workers to monitor contractor labor practices, including access to identify documents and return travel.

On Some Contracts, Agencies' Monitoring Efforts Were Limited to Contractor-Provided Goods and Services

For 4 of the 11 contracts in our sample, agency officials stated that they did not specifically monitor contractor labor practices or efforts to combat TIP, as their monitoring processes were primarily focused on contractor-provided goods and services. First, on a construction contract in Qatar, DOD officials reported that they focused their monitoring on areas such as building design and quality of materials and that they did not specifically monitor for potential TIP abuses. As a result, according to an agency official, they have no ability to monitor the treatment of foreign workers once they step off the work site and thus might not be able to detect potential abuses. Second, on a DOD food services contract in Kuwait, agency officials said that they did not specifically monitor recruitment practices or have an audit program or checklist designed to combat TIP. Third, on a State security contract in Qatar, an official responsible for contract monitoring reported that monitoring efforts were focused on technical issues such as personnel qualifications and performance of duties, not on contractor labor practices or efforts to combat TIP. Finally, on a USAID construction contract in Afghanistan, an agency official stated that the agency monitored only for quality assurance and technical specifications and did not monitor specifically for TIP abuses. In addition, the contractor on this contract said it did not monitor subcontractors' labor practices. Agency officials reported that they had not documented any concerns regarding recruitment or labor practices on any of these 4 contracts. However, without efforts to specifically monitor labor practices or efforts to combat TIP, agencies' ability to detect such concerns is limited, and they cannot ensure that

Some Contracting Officials
Were Unaware of Their
Monitoring Responsibilities to
Combat TIP

foreign workers are being treated in accordance with the U.S. government's zero tolerance policy regarding trafficking in persons.

Some DOD and State contracting officials were unaware of relevant acquisitions policy and guidance for combating TIP and did not clearly understand their monitoring responsibilities. For example, DOD officials responsible for monitoring a construction contract in Qatar expressed uncertainty about their authorities for combating TIP. As a result, these officials indicated that they conducted little monitoring of labor practices or other efforts to combat potential TIP abuses. Furthermore, a State official in Qatar responsible for contract monitoring stated that he had only recently become aware of State's 2012 acquisition guidance on combating TIP and his monitoring activities did not specifically include efforts to combat TIP. In addition, a State official in Afghanistan with monitoring responsibilities for a services contract said that he was not aware of State's current guidance on combating TIP in contracts. This official noted that some State officials responsible for contract monitoring may need refresher training because their initial training occurred prior to the issuance of this guidance. Finally, State's Inspector General found, in a recent inspection of the U.S. embassy in Afghanistan, that embassy officials involved in contract administration were unaware of their responsibilities for monitoring grants and contracts for TIP violations.⁴³

Agencies have developed training to help contracting officials become more aware of their monitoring responsibilities. DOD has developed new training for contracting officials that, according to a senior official, will help ensure that these officials are knowledgeable, qualified, and authorized to complete their TIP monitoring responsibilities. In October 2014, DOD made this training mandatory for all DOD personnel with job responsibilities that require daily contact with DOD contractors, foreign national personnel, or both.⁴⁴ State officials noted that required training for officials responsible for contract monitoring includes a module on combating TIP, and State recently conducted a series of web-based

⁴³United States Department of State and the Broadcasting Board of Governors Office of the Inspector General, *Inspection of Embassy Kabul, Afghanistan*, ISP-I-14-22A (Arlington, Va.: August 2014).

⁴⁴We reviewed a draft of this training and found that it contained information on FAR requirements and DOD policy and guidance, as well as information on how to monitor contractor labor practices and efforts to combat TIP.

seminars for acquisition personnel on how to monitor contracts for TIP abuses.

Contractors Reported to Us that Their Labor Practices Reflect Efforts to Combat TIP

The FAR and agency policy and guidance recognize that contractors should follow various labor practices. For example, for certain contracts, State requires the inclusion of a clause that prohibits contractors from denying employees access to their passports, which helps to ensure that workers have freedom of movement. In addition, both DOD and State generally require the inclusion of clauses in certain contracts that speak to a minimum of 50 square feet of space per employee in contractor-provided housing. Contractors in our sample reported to us that their practices related to wages and hours, housing, access to identity documents, and the provision of return travel reflected efforts to combat TIP. Appendix IV provides more detailed information about requirements in the FAR and agency policy and guidance related to these practices.

Contractors Reported that Practices Related to Wages, Hours, Leave and Overtime Generally Complied with Host Country Labor Laws

In general, the FAR and DOD's FAR supplement require the inclusion of clauses in certain contracts that require contractors to comply with the labor laws of the host country, which, according to officials, govern practices related to wages, hours, leave, and overtime for the contracts in our sample. State and USAID guidance directs contracting officials to discuss the observance of local labor laws with contractors after awarding the contract.

According to agency and contractor officials, local labor laws in Kuwait, Qatar, Bahrain, and Iraq governed wages, hours, leave, and overtime for foreign workers on U.S. government contracts in these countries.⁴⁵ All eight of the contractors in our sample operating in Gulf countries or Iraq reported that their practices for foreign workers' hours, wages, leave, and overtime were generally established in accordance with the labor laws of

⁴⁵Currently, for DOD contracts in Afghanistan, where contractors are performing work only on U.S. military installations, contractors reported that Afghan labor laws do not apply to their foreign workers. One contractor stated that the Afghan labor laws do not apply because these workers fly directly into U.S. military installations and do not leave these facilities for the duration of their employment contract, other than for periods of leave where they can transit directly from the military base to an international airport and back again. Another contractor stated that DOD contractor employees are protected by a variety of U.S. laws and contract provisions, and consequently, the government of Afghanistan has not expressed concern about the working conditions for foreign workers that fly directly into and out of U.S. military installations.

Contractors Reported that Housing Practices Reflect Efforts to Combat TIP

the country in which they were performing their U.S. contract. According to agency officials and contractors, foreign workers employed on six contracts in our sample in these countries worked 8 to 12 hours per day and 6 days per week. On the contracts for which overtime was permitted, contractors reported that workers often earned overtime wage rates of 125 to 150 percent of their base pay for any hours worked in excess of their regularly scheduled shifts. Furthermore, employers generally provided these workers with 1 day off per week and 3 to 4 weeks of leave per year.

Both DOD and State generally require the inclusion of clauses in certain contracts that speak to a minimum of 50 square feet of space per employee in contractor-provided housing. Contractors in our sample reported to us that housing practices for contracts in our sample generally fell into the following categories, which reflect efforts to combat TIP:

- Foreign workers were provided housing by the U.S. government on U.S. installations. All of the DOD and State contractors in our sample that were operating in Iraq or Afghanistan reported that their foreign workers lived on-site at U.S. installations in U.S. government-provided housing.
- Foreign workers lived in contractor-provided housing facilities that included at least 50 square feet of living space per person, according to the contractors. For example, on a DOD services contract in Qatar, the contractor reported that its subcontractors provided housing for foreign workers. See figure 2 for examples of subcontractor-provided housing on this contract.
- Foreign workers were provided a housing stipend by the contractor, which workers used to secure their own housing. For instance, on the same DOD services contract in Qatar, the contractor reported that foreign workers who did not live in subcontractor-provided housing were given a housing stipend by the subcontractor and found their own housing. According to a DOD official associated with this contract, foreign workers who had families living in Qatar often choose to take the stipend to find housing that would accommodate their families.
- Foreign workers received no housing support from the contractor and had to secure and pay for their housing themselves. For example, on a DOD services contract in Bahrain, most foreign workers secured their own housing at their own expense, according to the contractor.

Figure 2: Examples of Subcontractor-Provided Housing for Foreign Workers on a Base Operations Support Services Contract in Qatar



Example 1 (top row):

- Exterior
- Kitchen
- Bathroom



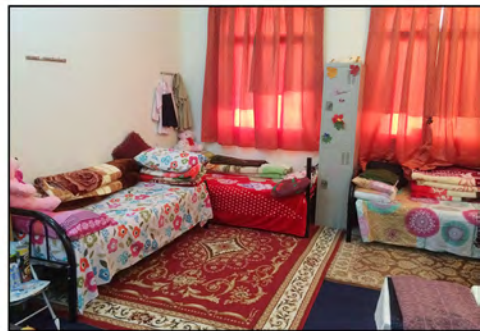
Example 2 (middle row):

- Exterior
- Sleeping area



Example 3 (bottom row):

- Exterior
- Kitchen
- Sleeping area



Source: GAO. | GAO-15-102

Contractors Reported that Foreign Workers Had Access to Identity Documents

DOD and State require the inclusion of clauses in certain contracts that require contractors to provide workers with access to their identity documents. DOD's contract clause generally allows contractors to hold employee passports only for the shortest time reasonable for administrative processing, and State's contract clause prohibits contractors from destroying, concealing, confiscating, or otherwise denying employees' access to identity documents or passports.

Contractors reported that foreign workers on the 11 contracts in our sample generally had access to their identity documents, such as passports. In general, workers either maintained personal possession of their documents or were guaranteed access to documents that they voluntarily submitted to the contractor for safekeeping. For the majority of contracts in our sample, the contractor reported that workers maintain possession of their identity documents and therefore had access to them. A DOD services contractor in Kuwait, for instance, reported that all of its foreign workers kept possession of their identity documents, including passports, work permits, driver's licenses, and insurance cards. For other contracts in our sample, contractors offered foreign workers the option to voluntarily submit their identity documents to the contractor for safekeeping and gave them access to their documents upon request. For example, on a DOD services contract in Bahrain, the contractor reported that it would hold foreign workers' identity documents for safekeeping if requested, but required them to sign a waiver that stated they had voluntarily submitted the documents.

Contractors included in our sample did not report any instances of withholding or restricting employees' access to identity documents; however, agency officials at two State posts we visited said that some contractors performing smaller-scale contracts for the U.S. government restricted access to identity documents. According to State's 2014 *Trafficking in Persons Report*, withholding employees' passports is a common practice in these countries. State officials in Kuwait, for instance, said that a Kuwaiti company providing janitorial services for the embassy was found to have withheld employee passports against the employees' will. These officials said that they removed the employees' supervisor from the contract when they learned of these allegations. State officials we spoke to in Jordan reported similar allegations of passport withholding

Contractors Reported that They Provided Foreign Workers with Return Travel

against the embassy's janitorial services contractor.⁴⁶ These officials reported that they took corrective action against the contractor that partially addressed this concern.

Under certain circumstances, DOD policy and State guidance require the inclusion of contract clauses in certain contracts that require contractors to provide workers with return travel upon completion of their employment contract. Certain DOD contracts in Afghanistan are to include a clause generally requiring contractors to return their employees to their point of origin or home country within 30 days after the end of the contract's period of performance.⁴⁷ State's contract clause notes that contractors are generally responsible for repatriation of workers imported for contract performance.

Contractors reported that they provide transportation to foreign workers to their home countries at the conclusion of their employment on all 11 contracts in our sample. For example, on a USAID construction contract in Afghanistan, the contractor provided return travel for all of the foreign workers on its contract by purchasing one-way plane tickets for the workers back to their home countries. In Bahrain, a DOD services contractor provided each foreign worker with a range of return travel options, including transportation to their home country, to a new employment location, or to any other desired location, or allowed them to stay in Bahrain and seek new employment arrangements.

On 6 of the contracts in our sample, officials stated that foreign worker repatriation was explicitly addressed in the terms of the contract. For example, State officials reported that a security contract in Iraq required the contractor to provide return travel for its foreign workers and that this requirement was discussed with the contractor at the end of the contract.⁴⁸ On 5 of these 6 contracts, officials reported that the contract also included provisions for repatriation expenses incurred by the

⁴⁶Although none of the contracts in our sample employed foreign workers in Jordan, we conducted preliminary fieldwork there where we discussed embassy contracts with State officials.

⁴⁷DOD, Director of Defense Procurement and Acquisition Policy, DOD Class Deviation 2013-O0017, Contractor Demobilization (Aug. 30, 2013).

⁴⁸In 2010, DOD reported that it had discovered that some foreign workers on DOD contracts had been left in Iraq by their previous employers.

contractor to be reimbursable by the U.S. government. For instance, State officials associated with a services contract in Iraq explained that State reimbursed the contractor for repatriation expenses because Iraqi law required all foreign workers to leave the country immediately following the conclusion of their employment, and State wanted to ensure that these workers returned to their home countries.

Conclusions

Human trafficking victimizes hundreds of thousands of men, women, and children worldwide, including workers who move from their home countries to seek employment overseas and improve their own and their families' well-being. The United States conducts diplomatic, defense, and development activities throughout the world, including in countries with restrictive labor practices and poor records related to trafficking in persons. The United States has an obligation to prevent entities working on its behalf from engaging in trafficking in persons, and when it uses contractors to support its activities in such countries, it bears an even greater responsibility to protect workers given the increased risk of abuse. Accordingly, it has taken several steps to eliminate trafficking in persons from government contracts and strengthened these efforts in 2007 with amendments to a contract clause required on all contracts that prohibits contractors from engaging in a variety of trafficking-related activities. Recognizing the need for further guidance on how to implement these regulations, agencies developed their own guidance and policy to augment worker protections and to clarify agency and contractor responsibilities.

The President and Congress both signaled the need for further clarity in reducing the risk of TIP on government contracts by directing amendments to existing regulations in 2012. While improving the government's ability to oversee its contractors' labor practices is a step in the right direction, ambiguity regarding the components and amounts of permissible fees related to recruitment can limit the effectiveness of these efforts. Many contractors acknowledge that their employees may have been charged a fee for their jobs, a common practice in many countries, but they do not know if these fees are acceptable, given the existing guidance and policy. Some fees may appear reasonable, but others could be exploitative or lead to debt bondage and other conditions that contribute to trafficking. Without a more precise definition of what constitutes a recruitment fee, agencies are hindered in effectively determining which fees are allowed, and therefore developing effective practices in this area.

Some agencies have established systematic processes for monitoring efforts to combat TIP on some contracts but do not monitor other contracts for TIP, focusing rather on contractor-provided goods and services. The lack of monitoring could inhibit agencies' ability to detect potential abuses of foreign workers and reflects the limited utility of existing guidance on monitoring. Further, without consistent monitoring of contractors' labor practices, the U.S. government is unable to send a clear signal to contractors, subcontractors, and foreign workers that the U.S. government will follow through forcefully on its zero tolerance human trafficking policy.

Recommendations for Executive Action

To help ensure agencies can more fully implement their monitoring policy and guidance related to recruitment of foreign workers, the Secretaries of Defense and State and the Administrator of the U.S. Agency for International Development should each develop, as part of their agency policy and guidance, a more precise definition of recruitment fees, including permissible components and amounts.

To help improve agencies' abilities to detect potential TIP abuses and implement the U.S. government's zero tolerance policy, the Secretaries of Defense and State and the Administrator of the U.S. Agency for International Development should each take actions to better ensure that contracting officials specifically include TIP in monitoring plans and processes, especially in areas where the risk of trafficking is high. Such actions could include developing a process for auditing efforts to combat TIP or ensuring that officials responsible for contract monitoring are aware of all relevant acquisition policy and guidance on combating TIP.

Agency Comments and Our Evaluation

We provided a draft of this product to DOD, State, and USAID for comment. These agencies provided written comments, which are reproduced in appendices VI through VIII.

Regarding our recommendation for agencies to develop a more precise definition of recruitment fees as part of their policy and guidance, DOD concurred, while State and USAID neither agreed nor disagreed. DOD indicated that it would define recruitment fees during the next review of its policy related to combating TIP and incorporate this requirement in agency acquisition regulations as necessary. Such actions, if implemented effectively, should address the intent of our recommendation to DOD. State commented that it prohibits charging any recruitment fees to foreign workers, and both State and USAID noted that

the proposed FAR rule on combating TIP would prohibit charging employees any recruitment fees. However, even if the final FAR rule prohibits all recruitment fees, it remains unclear whether the term “recruitment fees” includes components such as air tickets, lodging, passport and visa fees, and other fees that recruited individuals may be charged before being hired. Contracting officers and agency officials with monitoring responsibilities currently rely on policy and guidance that do not define recruitment fees, resulting in ambiguity over what constitutes such a fee. Without an explicit definition of what components constitute recruitment fees, prohibited fees may be renamed and passed on to foreign workers, increasing the risk of debt bondage and other conditions that contribute to trafficking. State also commented that, to ensure consistent treatment of recruitment fees across government, we should recommend that the Office of Management and Budget draft a FAR definition of recruitment fees. However, we believe that each agency should have the flexibility to determine, within its implementing regulations or policy, which components it considers to be included in the term “recruitment fees” to address each agency’s contracting practices. Thus we continue to believe our recommendation is valid and should be fully implemented by State and USAID.

DOD and State concurred with our recommendation to better ensure that contracting officials specifically include TIP in monitoring plans and processes in areas where the risk of trafficking is high. DOD said that it would update its FAR supplement following the publication of the final FAR rule on combating TIP to improve the government’s oversight of contractor compliance with TIP. State noted that it would add a requirement to the process that contracting officer’s representatives use to certify that they are familiar with requirements for TIP monitoring and include verification of TIP monitoring in reviews of contracting operations. USAID stated that all USAID staff would be required to take training in TIP, which will be released by the end of 2014. Further, USAID said that it will develop training for contracting officer’s representatives on how to include combating TIP in monitoring plans, as well as training for contracting officers to verify that efforts to combat TIP have been appropriately included in the monitoring plans. These actions, if fully implemented, may address the intent of our recommendation, but we continue to believe that DOD, State, and USAID should ensure that contracting officials specifically include TIP in monitoring plans and processes, especially in areas where the risk of trafficking is high.

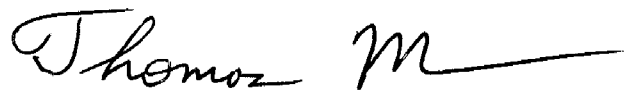
In addition, USAID stated that it would be useful to obtain further guidance to help it and other agencies consistently determine what areas

are considered high risk for TIP. One useful source of guidance is State's annual *Trafficking in Persons Report*, which places countries into tiers based on the extent of their governments' efforts to comply with the TVPA's minimum standards for the elimination of human trafficking. In addition, in its written comments, State noted that it is developing a tool for procurement and contracting officers and federal contractors to assess the risk of TIP, expected to be completed in spring 2015.

We also received technical comments from DOD and State, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Secretary of the Department of Defense, the Secretary of the Department of State, the Administrator of the U.S. Agency for International Development, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-9601 or melitot@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IX.



Thomas Melito, Director
International Affairs and Trade

List of Committees

The Honorable Tom Harkin
Chairman
The Honorable Lamar Alexander
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Patrick Leahy
Chairman
The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable John Kline
Chairman
The Honorable George Miller
Ranking Member
Committee on Education and the Workforce
House of Representatives

The Honorable Bob Goodlatte
Chairman
The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
House of Representatives

Appendix I: Objectives, Scope, and Methodology

This report responds to a requirement included in the Violence Against Women Reauthorization Act of 2013 for GAO to report on the use of foreign workers both overseas and domestically, including those employed on U.S. government contracts.¹ Our objectives were to examine (1) policies and guidance governing the recruitment of foreign workers and the fees these workers may pay to secure work on U.S. government contracts overseas and (2) agencies' monitoring of contractor efforts to combat TIP.

This report focuses on Department of Defense (DOD), Department of State (State), and U.S. Agency for International Development (USAID) contracts with performance in countries with large percentages of migrants as compared with local nationals,² and in Afghanistan and Iraq, where U.S. government contractors employ significant numbers of foreign workers. We selected a nongeneralizable sample of 11 contracts based on the contracts' place of performance, value, type of service provided, and the number of foreign workers employed. Specifically, we obtained a list of all contracts in the Federal Procurement Data System based on the following criteria:

- The contract was awarded by DOD, State, or USAID.
- The contract's completion date was on or after October 1, 2013.
- The contract's place of performance was in a country with a large portion of migrants, according to data from the United Nations, or was in Afghanistan or Iraq.
- The contract's product or service code indicated that the contract was for services, construction, or security—areas that were likely to include low-wage, low-skilled labor, because these types of jobs may be associated with a higher risk of TIP.

We narrowed this list to reflect a range of agencies, countries, and services. We compared this list with data provided by DOD, State, and USAID through the Synchronized Pre-deployment and Operational Tracker (SPOT) database at the end of fiscal year 2013 to identify contracts that employed large numbers of foreign workers. On the basis of this comparison, we selected 11 contracts that represent nearly one-third of all reported foreign workers employed on contracts awarded by

¹Pub. L. No. 113-4, § 1235.

²We used data on migrants as a proxy for the number of foreign workers, as data on foreign workers were unavailable.

these three agencies as reported in SPOT. Our previous work has described several data limitations related to SPOT,³ but we determined that these data were sufficiently reliable for the purposes of identifying and selecting contracts employing large numbers of foreign workers for in-depth review. Table 4 provides basic information on the selected contracts.

³In 2011, we reported that it is unclear when SPOT will serve as a reliable source of data to meet statutory requirements and be used by agencies for management, oversight, and coordination of contracts (GAO, *Iraq and Afghanistan: DOD, State, and USAID Cannot Fully Account for Contracts, Assistance Instruments, and Associated Personnel*, [GAO-11-886](#) (Washington, D.C.: Sept. 15, 2011)). In 2012, we reported that the agencies had made improvements to their contractor personnel data and related systems that could result in more reliable data, but data comparability across years and agencies was limited (GAO, *Iraq and Afghanistan: Agencies Are Taking Steps to Improve Data on Contracting but Need to Standardize Reporting*, [GAO-12-977R](#) (Washington, D.C.: Sept. 12, 2012)).

Table 4: GAO Sample of U.S. Government Contracts Employing Foreign Workers Overseas

Contract name	Contracting agency	Place of performance	Services provided	Total obligations as of fiscal year 2014 (Dollars in millions)	Peak number of foreign workers
Logistics Civil Augmentation Program IV, Task Order 5 (Afghanistan)	DOD/Army	Afghanistan	Facilities support	\$8,714	9,807
Field and Installation Readiness Support Team	DOD/Army	Afghanistan	Facilities support	\$1,417	3,658
Army Pre-positioned Stocks-5	DOD/Army	Kuwait	Facilities support	\$1,022	2,570
Qatar - Base Operations Support Services	DOD/Army	Qatar	Facilities support	\$174	650
Logistics Civil Augmentation Program IV, Task Order 5 (Bahrain)	DOD/Army	Bahrain	Facilities support	\$48	323
Coalition Compound Construction	DOD/U.S. Army Corps of Engineers	Qatar	Construction	\$45	391
Full Line Food and Beverage Support	DOD/Defense Logistics Agency	Kuwait/Iraq/Jordan	Food services	\$1,092	1,889
Worldwide Protective Services-Baghdad	State	Iraq	Security	\$608	1,410
Operations and Maintenance Support Services	State	Iraq	Facilities support	\$150	432
Embassy Doha Local Guard Force	State	Qatar	Security	\$6 ^a	70
Kandahar-Helmand Power Project	USAID	Afghanistan	Construction	\$227	41

Sources: Department of Defense (DOD), Department of State (State), and U.S. Agency for International Development (USAID). Data on foreign workers provided by contractors. | GAO-15-102

^aContract value at time of award.

To examine the recruitment of foreign workers and the fees they might pay to secure work on U.S. government contracts overseas, we conducted structured interviews with agency officials and contractors responsible for the contracts in our sample to identify, among other things, the relevant laws, regulations in the Federal Acquisition Regulation (FAR), agency acquisition policies, and agency acquisition guidance related to contractor recruitment practices. We reviewed these laws, regulations, policies, and guidance, as well as the Trafficking Victims Protection Act⁴ and Executive Order 13627⁵—*Strengthening*

⁴Pub. L. No. 106-386, Div. A, 114 Stat. 1464, 1466-1491, as amended.

⁵77 Fed. Reg. 60,029 (Oct. 12, 2012).

Protections Against Trafficking in Persons in Federal Contracts—which include additional requirements related to the recruitment of workers on U.S. government contracts. We also obtained detailed information from contractors performing the contracts in our sample about their recruitment practices through structured interviews, and, in some cases, we interviewed subcontractors who recruited and employed foreign workers regarding their practices. In addition, we reviewed DOD and State Inspector General reports to identify instances where foreign workers have reported paying recruitment fees. We conducted site visits in Afghanistan, Kuwait, and Qatar to interview DOD, State, and USAID officials, including personnel responsible for contract monitoring, contractors, subcontractors, host government officials, and nongovernmental organizations about the recruitment of foreign workers in these countries. We chose these countries based on the range of U.S. government activities in these countries, the prevalence of foreign workers, and State’s assessment of the host government’s efforts to combat TIP as indicated by State’s annual *Trafficking in Persons Report* tier placement. We also spoke with State and USAID officials in Jordan during preliminary fieldwork to inform our research design and methodology.⁶

On the contract employing the largest number of foreign workers in our sample, we obtained data from the contractor detailing cases of workers reporting that they had paid for their job. These data, collected from September 2012 through April 2014, included 2,534 reports of workers having paid for their jobs, and to whom, when, and where these reported payments were made. We analyzed these data to determine the number of unique individuals who had reported paying for their jobs. We then compared the data on who received these payments with a list of recruitment agencies provided by the subcontractor to determine if workers reported paying fees to recruitment agencies with which the subcontractor had agreements. We also obtained data from the contractor listing the monthly salaries in April 2014 of workers who had reported, in April 2014, having paid for their job at some point in the past. We then compared these data with the amount these workers reported having paid to determine the range and average number of months required for workers to earn the amount they reported having paid for

⁶We did not interview foreign workers as part of this review, because doing so in a rigorous and systematic way would have been impractical and excessively labor-intensive.

their job. We analyzed these data to calculate the mean, median, and mode of the reported fees for April 2014. We assessed the reliability of the survey data by interviewing knowledgeable officials, including the contractor and subcontractor, and analyzing the data for outliers and duplicate records. We found these data sufficiently reliable to show that workers reported having paid for their jobs and that these payments were made to several recruitment agencies that supplied workers for this contract; and to calculate the number of months' reported salary required to pay for the reported fee.

To assess agencies' monitoring of contractor labor practices affecting foreign workers, we obtained information through our structured interviews regarding housing, wages and hours, access to identity documents, and return travel for foreign workers on contracts in our sample. We selected these practices because they were mentioned explicitly in either or both an amendment to the Trafficking Victims Protection Act, contained in the National Defense Authorization Act for Fiscal Year 2013,⁷ and Executive Order 13627—*Strengthening Protections Against Trafficking in Persons in Federal Contracts*—and were included in a list of potential indicators of trafficking in persons (TIP) by the International Labour Organization (ILO). We analyzed information from DOD and State officials regarding their monitoring processes for these practices, including monitoring checklists and audit procedures for combating TIP provided by the Defense Contract Management Agency. We conducted site visits to contractor-provided housing for foreign workers on 2 contracts in our sample during our fieldwork in Kuwait and Qatar. In these countries and in Afghanistan, we interviewed DOD and State officials; contractors; and, in some cases, subcontractors about labor practices related to foreign workers on the contracts in our sample. We also met with DOD and State officials responsible for monitoring contracts to discuss their efforts to monitor contracts in our sample for potential TIP abuses. We reviewed relevant laws, regulations in the FAR, agency acquisition policies, and agency acquisition guidance related to contractor labor practices and agencies' responsibilities for monitoring these practices. We also reviewed training requirements for acquisition personnel related to monitoring for TIP abuses and discussed existing and planned training with DOD and State officials.

⁷Pub. L. No. 112-239, § 1702.

We also reviewed relevant studies and reports on TIP and foreign workers, including reports by DOD's and State's Inspectors General, the United Nations, the International Labour Organization, and nongovernmental organizations. We reviewed the methodologies used to conduct these studies and, for those that we used to corroborate our findings, we determined that they were sufficiently reliable for that purpose.

We conducted this performance audit from June 2013 to November 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: International Definitions and Indicators of Trafficking in Persons

In 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*,¹ trafficking in persons is defined as the recruitment, transportation, transfer, harboring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.²

In addition, the ILO has developed a list of indicators of trafficking for labor exploitation.³ These indicators specify several indicators of deceptive or coercive recruitment, recruitment by abuse of vulnerability, exploitation, and coercion or abuse of vulnerability at the destination. For example, these indicators include

- deception about travel and recruitment conditions,
- confiscation of documents,
- debt bondage,
- excessive working days or hours, and
- no respect for labor laws or signed contracts.

¹This agreement, also known as the Palermo Protocol, seeks to prevent and combat trafficking in persons, protect and assist victims of trafficking, and promote cooperation among Parties in order to meet these objectives. The protocol supplements the U.N. Convention Against Transnational Organized Crime. It was opened for signature in Palermo, Italy, in December 2000. The United States became a party to this protocol in December 2005.

²The term "exploitation" in the protocol is further defined to include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or removal of organs.

³ILO, *Operational Indicators of Trafficking in Human Beings* (Geneva: March 2009, revised September 2009).

Appendix III: Migrant Workers in Gulf Countries

Migrants from Source Countries in Asia and Africa Move to Gulf Countries for Economic Reasons

Migrants, such as foreign workers, from many countries seek employment in the Gulf region.¹ In 2013, the top five source countries of international migrants to Gulf countries were India, Bangladesh, Pakistan, Egypt, and the Philippines (see table 5). Growing labor forces in source countries provide an increasing supply of low-cost workers for employers in the Gulf and other host countries where, according to the International Labour Organization (ILO), demand for foreign labor is high.

Table 5: Number of Migrants in Gulf Countries from Each of the Top Five Source Countries in 2013

Source country	Host country						Total
	Bahrain	Kuwait	Oman	Qatar	Saudi Arabia	United Arab Emirates	
India	262,855	730,558	644,704	576,776	1,761,857	2,852,207	6,828,957
Bangladesh	100,444	279,169	148,314	220,403	1,309,004	1,089,917	3,147,251
Pakistan	87,892	244,281	117,208	192,860	1,319,607	953,708	2,915,556
Egypt	65,607	182,342	41,365	143,960	1,298,388	711,894	2,443,556
Philippines	43,971	122,214	21,669	96,487	1,028,802	477,139	1,790,282
Rest of the world	168,588	469,489	138,772	370,469	2,342,775	1,742,116	5,232,209
Total	729,357	2,028,053	1,112,032	1,600,955	9,060,433	7,826,981	22,357,811

Source: United Nations, Department of Economic and Social Affairs. *Trends in International Migrant Stock: the 2013 revision*. | GAO-15-102

Economic conditions and disparities in per capita income between source and host countries encourage foreign workers to leave their countries to seek employment. In 2012, average per capita income in the six Gulf countries was nearly 25 times higher than average income per capita in the top five source countries, and some differences between individual countries were even more dramatic, according to the World Bank. For example, in 2012, annual per capita income in Qatar was more than \$58,000, nearly 100 times higher than in Bangladesh, where per capita income was almost \$600. Foreign workers in Gulf countries send billions of dollars in remittances to their home countries annually. For example, in 2012 the World Bank estimated that migrant workers from the top five source countries sent home almost \$60 billion from the Gulf countries,

¹For the purposes of this report, we use the term “Gulf countries” to refer to the six member states of the Cooperation Council for the Arab States of the Gulf, also known as the Gulf Cooperation Council. These states are Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.

including nearly \$33 billion to India, nearly \$10 billion to Egypt, and nearly \$7 billion to Pakistan.²

Source Country Regulation of Overseas Employment

Source countries regulate the recruitment of their nationals for overseas employment in a variety of ways. According to relevant regulatory agencies in their countries, some source countries, such as India and the Philippines, have a licensing process for recruitment agencies and require potential overseas employers to use only licensed recruiters. According to these agencies, these countries also permit recruiters to charge prospective migrant workers a fee in specified circumstances but limit the amount of this fee. For example, according to the Indian Ministry of Overseas Indian Affairs, India's Emigration Act and Rules detail requirements for the registration of recruiters, prohibit the use of subagents, prescribe the emigration clearance process, and permit registered recruiters to charge migrant workers fees up to 20,000 rupees, currently about \$325, for their services. Similarly, according to the Philippines Overseas Employment Administration, the government of the Philippines facilitates the emigration of Filipino workers employed abroad and provides standards and oversight through licensing, required contract provisions, and placement fees. Filipino embassies in host countries also provide services for its citizens in those countries, such as assistance establishing bank accounts and wiring money home and information regarding worker rights in the host country, according to the Filipino Labor Attaché in Qatar. According to the Bangladeshi Ministry of Expatriates' Welfare and Overseas Employment, the ministry was established in 2001 to ensure the overall welfare of migrant workers and has established a process for licensing recruitment agents. Other countries, such as Egypt, do not regulate overseas recruitment, lacking a licensing process for recruiters and regulations on the amount of fees that these recruiters may charge, according to the Egyptian Ministry of Manpower and Emigration.

Host Country Labor Practices

The ILO has reported that in Gulf countries, several common and restrictive labor practices stem from the Kafala sponsorship system of foreign workers.³ According to the ILO, the Kafala system is a

²World Bank staff calculation based on data from the International Monetary Fund Balance of Payments Statistics database and data releases from central banks, national statistical agencies, and World Bank country desks.

³ILO, *Tricked and Trapped: Human Trafficking in the Middle East* (Beirut: April 2013).

sponsorship system whereby a foreign worker is employed in a Gulf country by a specific employer that controls the worker's residency, immigration, and employment status. Under this system, employers meet their demand for labor either by direct recruitment or through the use of recruitment agents who find foreign workers. The system generally ties workers' residency and immigration status to the employer, which can prevent workers from changing employers and limit their freedom of movement, according to the ILO. The ILO further stated that sponsors can also prohibit workers from leaving the country and have the right to terminate workers' employment contracts and have residency permits canceled. According to State's *Qatar 2013 Human Rights Report*, international media and human rights organizations alleged numerous abuses against foreign workers, including a sponsorship system that gave employers an inordinate level of control over foreign workers.⁴

In addition to the labor practices associated with the Kafala system, the withholding of workers' passports is an additional restrictive labor practice common in many Gulf countries. For example, State reported that in Qatar, despite laws prohibiting the withholding of foreign workers' identity documents, employers withheld the passports of a large portion of their foreign workers in that country. According to State's most recent *Trafficking in Persons Report*, the withholding of foreign workers' passports contributes to the potential for trafficking in persons (TIP). Furthermore, the ILO has reported that employers in Gulf countries may refuse to release workers or may charge high fees for release, withhold wages as security to prevent workers from running away, and withhold personal travel documents.⁵ The ILO also found that workers in these countries may be subjected to forced overtime, limited freedom of movement, degrading living and working conditions, and physical violence and threats. Overall, the ILO estimated that there were 600,000 victims of forced labor in the Middle East at any given point in time between 2002 and 2011.⁶

⁴Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2013: Qatar* (Washington, D.C.: 2013).

⁵ILO, *Tricked and Trapped*.

⁶ILO, *Global Estimate of Forced Labour: Results and Methodology* (Geneva: 2012).

Appendix IV: Federal Acquisition Regulations and Agency Policy and Guidance Related to Contractor Recruitment and Labor Practices

The Federal Acquisition Regulation (FAR) requires all solicitations and contracts to include Clause 52.222-50, Combating Trafficking in Persons (TIP). This clause includes a prohibition on contractors engaging in severe forms of TIP, which includes the recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. However, the clause contains no further provisions related to recruitment or other labor practices discussed in this report. The Department of Defense (DOD), Department of State (State), and the U.S. Agency for International Development (USAID) have developed policy and guidance that provides more specificity on these practices, as outlined in table 6.¹

¹In September 2013, amendments to the FAR were proposed to implement the requirements of the 2013 amendments to the Trafficking Victims Protection Act (TVPA) and the executive order related to strengthening protections against TIP. 78 Fed. Reg. 59,317 (Sept. 26, 2013).

**Appendix IV: Federal Acquisition Regulations
and Agency Policy and Guidance Related to
Contractor Recruitment and Labor Practices**

Table 6: Agency Policy and Guidance Related to Recruitment and Labor Practices on U.S. Government Contracts

	DOD	State	USAID
Citation	U.S. Central Command-Joint Theater Support Contracting Command (C-JTSCC) Acquisition Instruction ^a	Procurement Information Bulletin No. 2012-10, Contractor Recruitment of Third-Country Nationals	Procurement Executive's Bulletin No. 2012-07, Combating Trafficking in Persons
Related contract clause	U.S. Central Command (CENTCOM) contracts for services or construction that require performance in Afghanistan are to include C-JTSCC Clause 5152.222-5900, Prohibition Against Human Trafficking, Inhumane Living Conditions, and Withholding of Employee Passports (August 2011).	All solicitations and contracts valued over \$150,000 requiring nonprofessional labor where contract performance will require recruitment of third-country national labor specifically for contract performance must include contract clause "Recruitment of Third Country National for Performance on Department of State Contracts" (October 2012).	
Recruitment	Contractors shall not utilize unlicensed recruiting firms or firms that charge illegal recruiting fees.	Requires offerors to submit a recruitment plan as part of the proposal. This plan should include, for example, the following elements: ^b State in the offer that the recruited employee will not be charged recruitment or any similar fees. The contractor or employer pays the recruitment fees for the worker if recruited by the contractor or subcontractor to work specifically on Department of State jobs. ^c State in the offer that the contractor's recruitment practices comply with recruiting nation and host country labor laws. Contractor and subcontractors shall only use bona fide licensed recruitment companies. Recruitment companies shall only use bona fide employees and not independent agents.	<i>No specific provisions</i>
Wages, hours, leave, and overtime	Contractors shall provide employees with a signed copy of their employment contract, in English and the employee's native language, that defines the terms of their employment and compensation.	Contractors shall provide employees with signed copies of the/their employment contracts, in English and the employee's native language, that define the terms of employment, compensation including, for example, salary, overtime rates, allowances, and salary increases.	Contracting officers to tell implementing partners that they should explain to employees when it must make deductions from wages.

**Appendix IV: Federal Acquisition Regulations
and Agency Policy and Guidance Related to
Contractor Recruitment and Labor Practices**

	DOD	State	USAID
Housing	Contractors shall be required to provide adequate living conditions (sanitation, health, safety, living space) for their employees. Fifty square feet is the minimum acceptable square footage of personal living space per employee.	The offeror will submit a housing plan if the contractor intends to provide employer furnished housing for third country nationals. The housing plan must describe the location and description of the proposed housing. Contractors must state in their offer that housing meets host country housing and safety standards and local codes or explain any variance. Contractor shall comply with any temporary labor camp standards contained in this contract. In contracts without a temporary labor camp standard, 50 square feet is the minimum amount of space per person without a contracting officer waiver. Contractor shall submit proposed changes to their housing plan to the contracting officer for approval.	<i>No specific provisions</i>
Access to identity documents	Contractors shall only hold employee passports and other identification documents for the shortest period of time reasonable for administrative processing purposes.	Contractor may not destroy, conceal, confiscate, or otherwise deny access to an employee's identity documents or passports. Contractors and subcontractors are reminded of the prohibition contained in Title 18, United States Code, Section 1592, against knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document to prevent or restrict the person's liberty to move or travel in order to maintain the services of that person, when the person is or has been a victim of a severe form of trafficking in persons. Contractor must be familiar with any local labor law restrictions on withholding employee identification documentation.	Contracting officers must tell the contractor that it must not withhold employee passports or visas without employee permission.
Return travel	<i>No specific provisions^d</i>	Contractor and subcontractors shall comply with sending and receiving nation laws regarding transit, entry, exit, visas, and work permits. Contractors are responsible for repatriation of workers imported for contract performance except an employee legally permitted to remain in the country of work and who chooses to do so; or an employee who is a victim of trafficking seeking victim services or legal redress in the country of employment or a witness in a trafficking-related enforcement action.	<i>No specific provisions</i>

Source: GAO analysis of C-JTSCC Acquisition Instruction, State Procurement Information Bulletin 2012-10, and USAID Procurement Executive's Bulletin 2012-07. | GAO-15-102

^aCertain non-CENTCOM contracts with performance in Afghanistan are also to include this clause. See, e.g., Contracting Officer's Guide for Theater Business Clearance Afghanistan (Aug. 31, 2013).


^bContractors submit recruitment and housing plans as appropriate. Contracts shall only be awarded to contractors submitting acceptable plans.

^cOnce a contractor is chosen for award, and its offer is accepted by the government, the terms of the offer generally become binding.

**Appendix IV: Federal Acquisition Regulations
and Agency Policy and Guidance Related to
Contractor Recruitment and Labor Practices**

^dAnother Department of Defense (DOD) policy requires certain DOD contracts in Afghanistan to include a clause generally requiring contractors to return their employees to their point of origin or home country within 30 days after the end of the contract's period of performance. DOD Class Deviation 2013-O0017, Contractor Demobilization (Aug. 30, 2013).

Appendix V: Sample Defense Contract Management Agency Universal Examination Record for Combating Trafficking in Persons, May 2011



Defense Contract Management Agency, Afghanistan
Universal Examination Record Combating Trafficking In Persons

EXAMINATION GUIDELINES

Select Appropriate Response for each Requirement Examined

YES = Requirement performed satisfactory. *May comment when key observations are noted for PEB.*

NO = Requirement performed unsatisfactory. *Comment should identify corrective action in-place or plan of action i.e. CAR.*

N/O = Performance of requirement not observed. *Comment when adverse circumstances prevent verification of requirement.*

N/A = Requirement not applicable. *Comment when contractor disputes validity of requirement.*

Shorthand: **RVI** = Records Visually Inspected; **CAO** = Corrective Action Observed; **CAIP** = Corrective Action In Place

CTIPS POLICY

CARRY THE REQUIRED CTIPS CONTRACT CLAUSE(S) WITH YOU WHEN EVALUATING THE CONTRACTOR/SUBCONTRACTOR

The United States Government and the United States Department of Defense (DoD) has adopted a zero tolerance policy regarding trafficking in persons. Contractors, subcontractors and their 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
- (3) Use forced labor in the performance of the contract

* **LOGCAP** contract: both clauses apply, both sections must be completed.
 * **TWCA** contracts: CTIPs requirement varies, both sections **MAY** apply, review contract before audit


FAR 52.222-50 COMBATING TRAFFICKING IN PERSONS (FEB 2009)

REQUIREMENT	YES	NO	N/O	N/A	COMMENT
1. Has the contractor informed its employees of the United States Government's zero tolerance CTIPs policy, to include informing employees of the actions that will be taken against them for violations of this policy? FAR Para (c)(1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. Has the contractor informed the contracting officer of any information it receives (including from host country law enforcement) that alleges a contractor employee or subcontractor employee has engaged in conduct violating the CTIPs policy? FAR Para (d)(1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3. Has the contractor informed the contracting officer of any actions taken against contractor employees, subcontractor's or subcontractor employees pursuant to this clause? FAR Para (d)(2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

DCMA Examination Record Revision Date: 10 May 2011

Page 2 of 3

Appendix V: Sample Defense Contract
Management Agency Universal Examination
Record for Combating Trafficking in Persons,
May 2011



Defense Contract Management Agency, Afghanistan
Universal Examination Record Combating Trafficking In Persons

JCC-I/A 952.222-0001 PROHIBITION AGAINST HUMAN TRAFFICKING, INHUMANE LIVING CONDITIONS, AND WITHHOLDING OF EMPLOYEE PASSPORTS (JUL 2009)					
REQUIREMENT	YES	NO	N/O	N/A	COMMENT
4. Does the contractor knowingly destroy or posses any employee passport (or other immigration document) to prevent an employee's liberty to travel – in order to maintain the labor or services of that person? LOGCAP JCC-I/A Para (a)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5. Does the contractor only hold employee passports and other identification documents for the shortest period of time reasonable for administrative processing purposes? LOGCAP JCC-I/A Para (b)(1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6. Does the contractor provide all employees with a signed copy of their employment contract, in English as well as the employee's native language – that defines the terms of their employment/ compensation? LOGCAP JCC-I/A Para (b)(2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
REQUIREMENT	YES	NO	N/O	N/A	COMMENT
7. Does the contractor provide adequate living conditions (sanitation, health, safety, living space) for their employees? LOGCAP JCC-I/A Para (b)(4)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<p><i>Note: Fifty square feet is the minimum acceptable square footage of personal living space per employee. Upon contractors' written request, contracting officers may grant a waiver in writing in cases where the existing square footage is within 20% of the minimum, and the overall conditions are determined by the contracting officer to be acceptable.</i></p> <p>A copy of the waiver approval shall be maintained at the respective life support area.</p>					
8. Does the contractor's Quality Control program incorporate checks of life support areas to ensure compliance with the requirements of this Trafficking in Persons Prohibition? LOGCAP JCC-I/A Para (b)(5)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the contractor advise the Contracting Officer if they learn of their employees violating the human trafficking and inhumane living conditions? LOGCAP JCC-I/A Para (c)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

DCMA Examination Record Revision Date: 10 May 2011
Page 3 of 3

Source: Defense Contract Management Agency, Afghanistan. | GAO-15-102

Appendix VI: Comments from the Department of Defense



DEFENSE HUMAN RESOURCES ACTIVITY
HEADQUARTERS
4800 MARK CENTER DRIVE, SUITE 06J25-01
ALEXANDRIA, VA 22350-4000

OCT 30 2014

Mr. Thomas Melito
Director, International Affairs and Trade Issues
U.S. Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Melito:

Thank you for the opportunity to provide comments on the draft report, "Human Trafficking: Oversight of Contractors' Use of Foreign Workers in High Risk Countries Needs to Be Strengthened" (GAO-15-102), dated October 17, 2014. The response to the Government Accountability Office's recommendations is enclosed. Please direct any questions to Mr. Sam Yousef, 571-372-1939, or sam.yousefzadeh.civ@mail.mil.

Sincerely,

A handwritten signature in cursive script that reads "Pamela S. Mitchell".

Pamela S. Mitchell
Director

Enclosure:
As stated

GAO DRAFT REPORT DATED OCTOBER 17, 2014
GAO-15-102 (GAO CODE 320985)

“HUMAN TRAFFICKING: OVERSIGHT OF CONTRACTOR’S USE OF FOREIGN
WORKERS IN HIGH RISK COUNTRIES NEEDS TO BE STRENGTHENED”

DEPARTMENT OF DEFENSE COMMENTS
TO THE GAO RECOMMENDATION

RECOMMENDATION 1: The GAO recommends that the Secretary of Defense develop, as part of agency policy and guidance, a more precise definition of recruitment fees, including permissible components and amounts.

DoD RESPONSE: Concur. The Department will define recruitment fees in Department of Defense (DoD) Instruction 2200.01, “Combating Trafficking in Persons,” upon its next review. Once published, DoD will incorporate this requirement in the Defense Federal Acquisition Regulation Supplement (DFARS) as necessary.

RECOMMENDATION 2: The GAO recommends that the Secretary of Defense take actions to better ensure that contracting officials specifically include TIP in monitoring plans and processes in areas where the risk of trafficking is high. Such actions could include developing a process for auditing efforts to combat TIP or ensuring that officials responsible for contract monitoring are aware of all relevant acquisition policy and guidance on combating TIP.

DoD RESPONSE: Concur. The proposed rules under Federal Acquisition Regulation (FAR) Case 2013-001, “Ending Trafficking in Persons,” implementing Executive Order 13627 and Title XVII of the National Defense Authorization Act for FY 2013 and DFARS Case 2013-D007, “Further Implementation of Trafficking in Persons Policy,” are both currently being prepared for publication. Once the Department of Defense, the National Aeronautics and Space Administration, and the General Service Administration publish the Final FAR Rule, the Final DFARS Rule will follow next. These updates represent significant improvement of the Government’s oversight of contractor compliance with TIP.

Appendix VII: Comments from the Department of State



United States Department of State
Comptroller
P.O. Box 150008
Charleston, SC 29415-5008

OCT 31 2014

Dr. Loren Yager
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Dr. Yager:

We appreciate the opportunity to review your draft report, "HUMAN TRAFFICKING: Oversight of Contractors' Use of Foreign Workers in High Risk Countries Needs to Be Strengthened" GAO Job Code 320985.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Steven Johnston, Senior Advisor, Office of the Procurement Executive, Bureau of Administration at (703) 875-6769.

Sincerely,

A handwritten signature in black ink that reads "Christopher H. Flaggs".

Christopher H. Flaggs, Acting

Enclosure:
As stated.

cc: GAO – Thomas Melito
A– Joyce A. Barr
State/OIG – Norman Brown

Department of State Comments to GAO Draft Report

Human Trafficking: Oversight of Contractors' Use of Foreign Workers in High Risk Countries Needs to be Strengthened
(GAO-15-102, GAO Code 320985)

The Department of State appreciates the opportunity to comment on GAO's draft report "*Human Trafficking: Oversight of Contractors' Use of Foreign Workers in High Risk Countries Needs to be Strengthened.*"

The following are our responses to the two recommended actions:

- 1) The Secretaries of Defense and State and the Administrator of the U.S. Agency for International Development should develop, as part of their agency policy and guidance, a more precise definition of recruitment fees, including permissible components and amounts.**

Response:

As noted in the GAO draft report, the Department of State forbids the charging of any recruitment fees to the recruited individual. To ensure consistent treatment of recruitment fees across government we believe this recommendation should be directed to the Office of Management and Budget (OMB) to draft a Federal Acquisition Regulation (FAR) definition. In addition, we note that the new regulations, which will amend the FAR and implement Executive Order 13627: "Strengthening Protections Against Trafficking in Persons in Federal Contracts" and Title XVII, entitled "Ending Trafficking in Government Contracting, of the National Defense Authorization Act for Fiscal Year 2013", will prohibit charging employees recruiting fees. We understand that the final regulations will be issued shortly by the White House. The draft regulations are available at:

<https://www.federalregister.gov/regulations/9000-AM55/federal-acquisition-regulation-far-case-2013-001-ending-trafficking-in-persons>

- 2) The Secretaries of Defense and State and the Administrator of the U.S. Agency for International Development should take actions to better ensure that contracting officials specifically include TIP in monitoring plans and processes in areas where the risk of trafficking is high. Such actions could include developing a process for auditing efforts to combat TIP or ensuring that officials responsible for contract monitoring are aware of all relevant acquisition policy and guidance on combating TIP.**

See comment 1.

See comment 2.

-2-

Response:

The Department concurs with this recommendation. As noted in the GAO report, the Department of State provides training on contract monitoring to prevent and mitigate the risk of Trafficking in Persons. The Department will add a requirement to the process for Contracting Officer's Representatives (CORs) to certify they are familiar with the requirements for TIP monitoring. The Department will include verification of TIP monitoring in reviews of contracting operations.

In addition, the Department funded a project that gathered data and produced a report on global industries with a significant history or indications of trafficking or TIP-related activity (and analyzed the overlap between global supply chains deemed to be at risk for TIP and patterns of U.S. federal procurement areas). In the spring of 2015 this project will conclude with a tool for procurement and contracting officers and federal contractors (among others) to assess risk. Department offices will then work together on how best to highlight and disseminate this tool to support the work of procurement officials, with appropriate oversight and implementation guidance throughout the State Department and its respective contractors.

The following are GAO's comments on the Department of State letter dated October 31, 2014.

GAO Comments

1. State said that we should direct our recommendation to develop a more precise definition of recruitment fees to the Office of Management and Budget. We believe that each agency should have the flexibility to determine, within its implementing regulations, which items it considers to be included in the term "recruitment fees" to address each agency's contracting practices.
2. State noted that the new regulations that will amend the Federal Acquisition Regulation will prohibit charging employees recruitment fees. As our report notes, even if the final FAR rule prohibits all recruitment fees, it remains unclear whether the term "recruitment fees" includes items such as air tickets, lodging, passport and visa fees, and other fees that recruited individuals may be charged before being hired. Contracting officers and agency officials with monitoring responsibilities currently rely on policy and guidance regarding recruitment fees that are ambiguous. Without an explicit definition of the components of recruitment fees, prohibited fees may be renamed and passed on to foreign workers, increasing the risk of debt bondage and other conditions that contribute to trafficking.

Appendix VIII: Comments from the U.S. Agency for International Development



Thomas Melito
Director, International Affairs and Trade team
U.S. Government Accountability Office
Washington, DC 20548

NOV 05 2014

Dear Mr. Melito:

I am pleased to provide USAID's formal response to the Government Accountability Office (GAO) draft report entitled, "HUMAN TRAFFICKING: Oversight of Contractors' Use of Foreign Workers in High Risk Environments Needs to Be Strengthened" (GAO-15-102).

This letter, together with the enclosed USAID comments, is provided for incorporation as an appendix to the final report.

Thank you for the opportunity to respond to the GAO draft report and for the courtesies extended by your staff in the conduct of this audit review.

Sincerely,

A handwritten signature in blue ink, appearing to read "Angelique M. Crumbly". The signature is stylized and overlaps with the typed name below it.

Angelique M. Crumbly
Assistant Administrator
Bureau for Management
U.S. Agency for International Development

Enclosure: a/s

- 2 -

USAID COMMENTS ON GAO DRAFT REPORT

No. GAO-15-102

The U.S. Agency for International Development (USAID) offers the following to help ensure that agencies can more fully implement policies and guidance related to contractor recruitment of foreign workers, improve agencies' abilities to detect potential trafficking in person (TIP) abuses and implement the U.S. government's zero tolerance policy:

Recommendation 1: We recommend that the Secretaries of Defense and State and the Administrator of USAID should develop, as part of their agency policy and guidance, a more precise definition of recruitment fees, including permissible components and amounts.

Response: The proposed TIP Federal Acquisition Regulation (FAR) rule contains language that would prohibit charging contractor employees any recruitment fees. The final draft FAR rule contained the same language and includes a precise definition. As a result, we do not see any need for USAID to establish any policy or guidance that provides a "more precise definition of recruitment fees, including permissible components and amounts." Once the final FAR rule is published, if it contains that same prohibition against any recruitment fees, USAID will instruct its contractors to comply with the new FAR rule and not charge any recruitment fees to contract employees.

Recommendation 2: We recommend that the Secretaries of Defense and State and the Administrator of USAID should take actions to better ensure that contracting officials specifically include TIP in monitoring plans and processes in areas where the risk of trafficking is high. Such action could include developing a process for auditing efforts to combat TIP or ensuring that officials responsible for contract monitoring are aware of all relevant acquisition policy and guidance on combating TIP.

Response: All USAID staff in USAID/Washington and the Missions will be required to take an online training course on human trafficking, which will be released by the end of Calendar Year 2014. In addition, the Office of Acquisition and Assistance (M/OAA) will work with the Bureau for Democracy, Conflict, and Humanitarian Assistance/Center of Excellence on Democracy, Human Rights, and Governance to develop training for Contracting Officer Representatives (COR) to teach them how to include combatting TIP in monitoring plans, as well as training for Contracting Officers to verify that this has been appropriately included in the monitoring plans. M/OAA can also incorporate the TIP monitoring requirement into the COR designation letter and require the CORs to monitor it through the regular reporting and monitoring process.

It would be useful to obtain further guidance on the recommendation to implement this in areas where the "risk of trafficking is high" to enable USAID, the State Department and Department of Defense to use the same standards or statistics to consistently determine what areas are considered to be high risk.

See comment 1.

See comment 2.

The following are GAO's comments on the U.S. Agency for International
Development letter dated November 5, 2014.

GAO Comments

1. USAID stated that the final draft Federal Acquisition Regulation rule contained language that would prohibit charging contractor employees any recruitment fees and therefore USAID did not see any need to establish any policy or guidance that provides a "more precise definition of recruitment fees, including permissible components and amounts." As our report notes, even if the final FAR rule prohibits all recruitment fees, it remains unclear whether the term "recruitment fees" includes items such as air tickets, lodging, passport and visa fees, and other fees that recruited individuals may be charged before being hired. Contracting officers and agency officials with monitoring responsibilities currently rely on policy and guidance regarding recruitment fees that are ambiguous. Without an explicit definition of the components of recruitment fees, prohibited fees may be renamed and passed on to foreign workers, increasing the risk of debt bondage and other conditions that contribute to trafficking.
2. USAID said that it would be useful to obtain further guidance on the recommendation to take actions to better ensure that contracting officials specifically include TIP in monitoring plans and processes in areas where the "risk of trafficking is high." One useful source of guidance is State's annual *Trafficking in Persons Report*, which places countries into tiers based on the extent of their governments' efforts to comply with the TVPA's minimum standards for the elimination of human trafficking. In addition, in its written comments, State noted that it is developing a tool for procurement and contracting officers and federal contractors to assess the risk of TIP, expected to be completed in the spring of 2015.

Appendix IX: GAO Contact and Staff Acknowledgments

GAO Contact

Thomas Melito, (202) 512-9601

Staff Acknowledgments

In addition to the individual named above, Leslie Holen, Assistant Director; J. Robert Ball; Gergana Danailova-Trainor; Brian Egger; Justine Lazaro; Jillian Schofield; and Gwyneth Woolwine made key contributions to this report. Lynn Cothorn, Etana Finkler, Grace Lui, Walter Vance, Shana Wallace, and Alyssa Weir provided technical assistance.

Related GAO Products

International Labor Grants: DOL's Use of Financial and Performance Monitoring Tools Needs to Be Strengthened. [GAO-14-832](#). Washington, D.C.: September 24, 2014.

International Labor Grants: Labor Should Improve Management of Key Award Documentation. [GAO-14-493](#). Washington, D.C.: May 15, 2014.

Human Rights: U.S. Government's Efforts to Address Alleged Abuse of Household Workers by Foreign Diplomats with Immunity Could Be Strengthened. [GAO-08-892](#). Washington, D.C.: July 29, 2008.

Human Trafficking: Monitoring and Evaluation of International Projects Are Limited, but Experts Suggest Improvements. [GAO-07-1034](#). Washington, D.C.: July 26, 2007.

Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Antitrafficking Efforts Abroad. [GAO-06-825](#). Washington, D.C.: July 18, 2006.

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