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Bureau for Management Office of Acquisition and Assistance

New FAR Rule “Ending Trafficking in Persons” (FAR case 2013-001, FAC 2005-80)

This new FAR rule became effective on March 2, 2015 and implemented Executive Order 13627, Titled “Strengthening Protections Against Trafficking in Person in Federal Contracts” and Title XVII of the National Defense Authorization Act for FY 2013.

- ◆ **Purpose:** The rule provides additional anti-trafficking policies that prohibit contractors and subcontractors from engaging in prohibited practices.
- ◆ **Applicability:** The rule applies to all new solicitations and awards. Contracting Officers must modify, on a bilateral basis, existing IDIQs to include the clause for future orders, if additional orders are anticipated.
- ◆ **FAR clause 52.222-50:** This “Combating Trafficking in Persons” clause applies to all new solicitations and awards. The clause describes nine prohibited trafficking activities, such as the prohibition against charging recruitment fees to employees; the prohibition against using misleading or fraudulent practices during recruitment of employees; making material misrepresentations regarding the key terms and conditions of employment; etc. Implementing Partners must thoroughly familiarize themselves with the complete list of prohibited activities.
- ◆ **FAR Certification 52.222-56 Regarding Trafficking in Persons Compliance Plan:** Contracting Officers must obtain this certification from the apparent successful offeror (and annually during contract performance). This certification is required for portions of contracts over \$500,000 performed outside the United States, except for commercially available off-the-shelf items of supply.
- ◆ **FAPIS:** Contracting Officers are required to put into FAPIS violations substantiated by the agency IG, after a final agency determination.
- ◆ **Compliance Plans:** As part of the contractor’s 52.222-56 certification, it must certify that it “has implemented” a compliance plan to prevent any prohibited activities identified in paragraph (b) of FAR clause 52.222-50. The contractor must also certify that, using “due diligence”, to the “best of its knowledge and belief, neither it nor any of its proposed agents, subcontractors, or their agents “is engaged” in any such activities; or if any such abuses have been found, it “has taken” appropriate remedial and referral actions. Compliance plans are submitted to the Contracting Officer only “upon request”.

Implementing Partners must promptly notify the CO and the Agency IG upon receipt of “credible information” regarding a trafficking violation. The CO may direct the contractor to take specific steps to abate the alleged violation or enforce the requirements of its compliance plan.

FAR 22.1704(d) discusses available remedies to the CO and government in the case of trafficking violations.