



Office of Inspector General

December 29, 2011

MEMORANDUM

TO: USAID/Egypt Mission Director, Walter North

FROM: Regional Inspector General/Cairo, Jacqueline Bell /s/

SUBJECT: Review of USAID/Egypt's Contractors' Compliance With the Trafficking Victims Protection Reauthorization Act of 2008 (Report No. 6-263-12-001-S)

This memorandum transmits our report on the subject review. In finalizing the report, we carefully considered management's comments on the draft report and have included them in Appendix II.

The report includes four recommendations to USAID/Egypt. In response to the draft report, USAID/Egypt mission officials agreed with all four recommendations. As a result, management decisions have been reached on all recommendations, and final action has been taken on Recommendation 2. Please provide the Audit Performance and Compliance Division of USAID's Office of the Chief Financial Officer with evidence of final action to close Recommendations 1, 3, and 4.

Thank you for the cooperation and courtesy extended to the review team during this review.

SUMMARY

To combat human trafficking, the U.S. Congress enacted the Trafficking Victims Protection Act of 2000 (TVPA), Division A of Public Law 106–386,¹ requiring federal agencies to take action to address trafficking in persons, identified as a “contemporary manifestation of slavery.” The TVPA enumerates federal actions to ensure effective punishment of traffickers and to protect their victims, who may be recruited or transported through the use of force, fraud, or coercion for the purpose of subjecting them to involuntary servitude.² Trafficking perpetrators may confiscate identification documents, restrict victims’ movement, or deceive victims about their work destinations, and human trafficking may involve the transport of victims both across and within country borders.

The U.S. Department of State classifies countries based on their efforts to combat human trafficking, issuing classifications ranging from Tier 1 to Tier 3. A Tier 3 designation indicates that a country does not comply with the standards to combat human trafficking required by the TVPA and is not making a significant effort to do so. (Appendix III contains information on the TVPA standards and the State Department’s human trafficking classifications.) Currently, the State Department ranks Egypt as a Tier 2 country, indicating that it is making a significant effort to comply with the TVPA standards. According to the State Department, Egypt is both a source and a destination country for forced labor and sexual trafficking. Particularly in the more remote regions of the Sinai, Egypt is a transit point for persons trafficked from one country to another, according to officials. A 2007 assessment contracted by USAID/Egypt on the status of trafficking in persons in Egypt identified trafficking for domestic service, prostitution, and child trafficking for labor as key issues. To address human trafficking, Egypt passed Law No. (64) of 2010 Regarding Combatting Human Trafficking, which prohibits all forms of human trafficking and prescribes penalties of imprisonment and fines for violations.

The Regional Inspector General/Cairo conducted this review as part of its fiscal year (FY) 2012 annual audit plan to address issues identified in the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (the Wilberforce Act), Public Law 110–457. From 2010 through 2012, the Wilberforce Act requires USAID’s Office of Inspector General to investigate contracts and subcontracts under which there is a high risk that the contractor may engage in acts related to trafficking in persons. As of September 30, 2011, USAID/Egypt had 15 active contracts valued at approximately \$192 million.³ (Appendix IV includes a full listing of USAID/Egypt contracts active as of September 30, 2011.) The contracts include technical support, efforts to strengthen nongovernmental organizations, monitoring and evaluation activities, and support services. According to USAID/Egypt officials, contractor employees

¹ 22 U.S.C. 7101, “Trafficking Victims Protection Act.”

² TVPA, as amended, describes activities that constitute severe forms of trafficking in persons. Specifically, these are (1) 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 and (2) 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 subjugation to involuntary servitude, peonage, debt bondage, or slavery.

³ This number does not include contracts managed by USAID/Egypt’s Office of Procurement for other missions, USAID/Egypt personal service contracts, or one regional contract managed by the Office of Middle East Programs and located at USAID/Egypt. For the purposes of this report, contracts in Egyptian pounds were converted to U.S. dollars using the exchange rate as of November 15, 2011.

working on these contracts are generally professionals with specific skill sets or degrees designed to support project goals.

The objective of this review was to assess whether (1) USAID/Egypt and its contractors established sufficient controls to prevent trafficking in persons and (2) USAID/Egypt's contractors and subcontractors engaged in trafficking in persons practices in selected programs.

USAID/Egypt has established controls to prevent human trafficking, including taking steps to implement activities required by the USAID Counter Trafficking in Persons Code of Conduct. In addition, a review of the one USAID/Egypt contract that relied on employees most at risk of trafficking found no indication that selected USAID/Egypt contractors and subcontractors were engaging in trafficking in persons. However, the mission has not ensured that all contracts include the required Federal Acquisition Regulation (FAR) language related to human trafficking. This language is a key component to ensuring that contractors are aware of the U.S. Government's policy on trafficking in persons and of their obligations as a USAID contractor.

Specifically, the review disclosed the following:

- USAID/Egypt did not include required language related to human trafficking in some contracts (page 4).
- Selected USAID/Egypt contractors were not engaging in trafficking in persons (page 7).
- USAID/Egypt has taken actions to combat trafficking in persons (page 8).

To improve the effectiveness of USAID/Egypt's efforts to combat trafficking in persons, this review recommends that:

1. USAID/Egypt review and modify its active contracts, as appropriate, to verify that clauses regarding combating trafficking in persons are included, as required by the Federal Acquisition Regulation (page 6).
2. USAID/Egypt collaborate with USAID/Washington's Office of Acquisition and Assistance to establish a mechanism for providing mission contracting officers with information on modifications to indefinite quantity contracts under which the mission has task orders (page 6).
3. USAID/Egypt remind its contracting officers, in writing, to conduct ongoing reviews of standard provisions in indefinite quantity contracts and relevant modifications and to include required standard provisions in mission task orders, if warranted (page 6).
4. USAID/Egypt remind its contracting officers, in writing, to provide contracting officer's technical representatives with copies of any modifications to indefinite quantity contracts under which the mission has a task order, as warranted (page 6).

Detailed findings follow. Our evaluation of management comments is on page 10. Appendix I presents the review scope and methodology, and Appendix II presents the full text of management comments.

REVIEW RESULTS

USAID/Egypt Did Not Include Required Language in Some Contracts

Federal and USAID guidance requires that contracts include information about combating trafficking in persons and about the responsibilities of contractors⁴ and contractor employees. TVPA stipulates that a federal agency may terminate any grant, contract, or cooperative agreement without penalty if an implementer engages in forms of trafficking in persons, procures a commercial sex act during the contract period, or uses forced labor. Moreover, FAR 22.17 and 52.222–50, both entitled “Combatting Trafficking in Persons,” require that specific language related to combating trafficking in persons be incorporated in all contracts. FAR 52.222–50 further requires that this same language be included in all subcontracts. In part, this language notifies contractors of the U.S. Government’s zero-tolerance policy on human trafficking, contractor requirements to share information about the policy with their employees, punitive actions for noncompliance, and the responsibility to notify a cognizant contracting officer about allegations of human trafficking. In accordance with the FAR, the U.S. Government may take a variety of corrective actions up to suspension and debarment of a contractor. To formalize USAID’s commitment to combat human trafficking, the Agency implemented the “USAID Counter Trafficking in Persons Code of Conduct” in January 2011.

As of September 30, 2011, 60 percent (9 of 15) of USAID/Egypt’s active contracts, valued at \$130.5 million, did not include the required FAR clause related to trafficking in persons. USAID/Egypt’s procurement officials modified one of the six contracts identified as including the required language—a 3-year contract for USAID/Egypt support services, valued at approximately \$1.5 million—after the review began on October 17, 2011.⁵ On November 29, 2011, the mission modified seven of the nine contracts identified as not including the required FAR language to add that language. Of the 15 contracts active as of September 30, 2011, 7 were contracts between USAID/Egypt and implementers to conduct a variety of programs, including activities to strengthen Government of Egypt ministries and civil society organizations, support scholarship activities, and provide building support services to USAID/Egypt. An additional eight contracts were awarded by USAID/Egypt as task orders under indefinite quantity contracts (IQCs)⁶ that USAID/Washington’s Office of Acquisition and Assistance (OAA) awarded and manages. Three of the seven direct USAID/Egypt contracts, valued at \$26.4 million, and six of the eight task orders, valued at \$104 million, did not include the required human trafficking language.

Although USAID/Egypt awarded task orders under IQCs, the mission’s procurement staff did not request copies of IQC modifications that occurred after the IQCs were awarded, which may have

⁴ “Contractors” in this context refers to contractors, subcontractors, grantees, and subgrantees.

⁵ The value of this contract is 9,058,045 Egyptian pounds, approximately \$1.5 million, as of November 15, 2011.

⁶ To expedite the award process, USAID uses indefinite quantity contracts to provide an indefinite quantity, within stated limits, of supplies or services during a fixed period. Using an IQC, missions can implement task orders to use contractor services when officials cannot determine a precise quantity of supplies or services that the U.S. Government will need during a contract period.

added the required FAR clause. According to USAID/Egypt's procurement director, procurement staff members do not routinely request copies of modifications to IQCs, and OAA does not provide the contract modifications to the mission routinely when modifications are made. Since USAID/Egypt did not verify that the FAR clause related to human trafficking was included in some of its contracts, at least one contractor and many contracting officer's technical representatives (COTRs) were not aware of the U.S. Government's policy on human trafficking or the related FAR requirements. In fact, the one contractor reported having no knowledge of the federal policy prior to the addition of the FAR clause to the contract in late October 2011. Despite the inclusion of the FAR language in two of the contracts selected for additional review and the addition of the language in the third, none of the three implementers had taken specific steps to inform their employees of the U.S. Government's zero-tolerance policy on human trafficking or of punitive actions for policy violations. One implementer stated that employees were provided an organizational code of conduct, while another stated that the organization was aware it had an obligation to treat employees ethically. However, the code of conduct information did not include the specific FAR requirement to apprise contractor and subcontractor employees of the U.S. Government's policy on human trafficking. When asked about the contractors' obligations, the USAID/Egypt Office of Procurement director stated that the Christian Doctrine⁷ holds contractors responsible for compliance with required clauses despite the absence of the documented information in a contract.

Before receiving information on human trafficking during USAID/Egypt's FY 2011 ethics training, most USAID/Egypt COTRs had not received any information or training regarding human trafficking issues. Although the COTRs are responsible for overseeing contract implementation, many COTRs reported that they did not fully review indefinite quantity contract standard provisions that may have included the required clause on human trafficking. As of October 2011, 7 of 15 (47 percent) COTRs for USAID/Egypt contracts active as of September 30, 2011, were not sure whether the FAR clause was in contracts for which they were responsible, and no COTRs interviewed had established management controls to ensure that contractors were complying with the FAR requirements to notify their employees about the U.S. Government policy on human trafficking.

USAID/Egypt employees offered numerous reasons why mission officials had not included human trafficking information in contracts. One COTR stated that not including the clause on combating trafficking in persons in 1 of the 15 mission contracts was an oversight. However, in this case mission procurement officials modified the contract to include the clause during this review. Although a contracting officer for three task orders under an IQC focusing on water and coastal resources management believed that the FAR clause was included in the IQC, the employee had not fully reviewed the IQC to verify that the trafficking in persons clause was included, which it was not.

Moreover, USAID/Egypt procurement employees noted that USAID/Washington's OAA may add the required language in the IQC modifications but does not ensure that information on modifications is readily available or provided to mission employees. When IQCs are implemented, OAA posts IQCs on the Agency's intranet site but does not always post modifications to the IQCs or make the information easily available to contracting officers

⁷ The case of *G.L. Christian and Associates v. United States*, 312 F. 2d 418 (Ct. Cl. 1963), cert. denied, 375 U.S. 954 (1963), resulted in what is referred to as the "Christian Doctrine." This contracting rule states that standard clauses mandated by regulation and implementing fundamental procurement policies must be considered as being in every federal contract, whether or not the contracting officer physically included the clause in the actual contract.

worldwide, according to USAID/Egypt's procurement office director. USAID/Egypt employees also stated that time constraints and the number of standard provisions have diminished employee initiative to follow up on possible IQC modifications. For example, the mission's procurement office director noted one typical USAID/Egypt contact included approximately 114 standard contract provisions. As a proactive measure, the mission's procurement office director noted that USAID/Egypt procurement employees could include key clauses in task orders within a week to ensure that the information is readily available to COTRs and other mission personnel.

If the required FAR language on trafficking in persons is not included in contracts, implementers and mission staff responsible for management oversight may not be fully aware of their role in the U.S. Government's efforts to combat human trafficking. Contractors may not be aware of requirements—to notify their employees of the U.S. Government's zero tolerance policy and of adverse consequences for policy violations—and USAID/Egypt employees responsible for management oversight will not routinely review an implementer's efforts to comply with the FAR clause, such as including the clause in implementer subcontracts. Under the Christian Doctrine, contractors are bound by contract provisions required by law, even if contracting officers fail to include them in a contract. However, this does not mean the failure to include the required human trafficking language has no adverse impact. Failure to include the required FAR clause may make it difficult for USAID/Egypt to enforce the Agency's anti-trafficking-in-persons requirements and impose penalties if violations occur. Consequently, this review makes the following recommendations.

Recommendation 1. We recommend that USAID/Egypt review and modify its active contracts, as appropriate, to verify that clauses regarding combating trafficking in persons are included, as required by the Federal Acquisition Regulation.

Recommendation 2. We recommend that USAID/Egypt collaborate with USAID/Washington's Office of Acquisition and Assistance to establish a mechanism for providing mission contracting officers with information on modifications to indefinite quantity contracts under which the mission has task orders.

Recommendation 3. We recommend that USAID/Egypt remind its contracting officers, in writing, to conduct ongoing reviews of standard provisions in indefinite quantity contracts and relevant modifications and to include required standard provisions in mission task orders, if warranted.

Recommendation 4. We recommend that USAID/Egypt remind its contracting officers, in writing, to provide contracting officer's technical representatives with copies of any modifications to indefinite quantity contracts under which the mission has a task order, as warranted.

Selected USAID/Egypt Contractors Were Not Engaging in Human Trafficking

TVPA, as amended, describes human trafficking, in part,⁸ as recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion to subject a person to involuntary servitude, debt bondage, or slavery. FAR 22.17 and 52.222–50, both entitled “Combatting Trafficking in Persons,” require contracts to include a clause prohibiting contractors, subcontractors, and contractor employees from engaging in human trafficking and specify punitive damages for infractions. Specifically, during the performance of a contract with the U.S. Government, FAR 22.17 prohibits contractors from engaging in forms of trafficking in persons, procuring commercial sex acts, and using forced labor in the performance of the contract. Moreover, FAR 52.222–50 allows the U.S. Government remedies against contractors that violate this prohibition, up to and including contract termination.

For the USAID/Egypt contracts reviewed, there was no indication that the mission’s contractors and subcontractors engaged in trafficking of persons under contracts ongoing as of September 30, 2011. USAID/Egypt did not have any contracts that employed significant numbers of staff in low-wage, low-skill positions. In fact, only one active contract, a 3-year contract with TransCentury Associates (TCA) valued at \$1.5 million, involved low-wage, low-skill workers. TCA hired employees, primarily of Egyptian origin, to perform janitorial, maintenance, repair, business support, and gardening services. According to USAID/Egypt officials, TCA is a U.S. company with an Egyptian branch that provides business support services as well as most of the materials, supplies, and spare parts needed to repair and maintain USAID/Egypt properties. TCA subcontracts with Ayad & Sons Inc. (Ayad), an Egyptian company, to provide building repair and maintenance services, including maintenance crews, janitors, and gardeners.

TCA and its subcontractor, Ayad, employ 45 staff members. They include employees at the USAID/Egypt office and a five-person mobile maintenance crew to provide services to the mission director’s private residence and a mission warehouse. Although Ayad employs 33 staff members under its contract with TCA, TCA did not include the FAR clause prohibiting human trafficking in its subcontract with Ayad, as required, until October 23, 2011.

TCA and Ayad employees reported no instances of threats, abuse, or coercion, and they stated that their mobility was not restricted. Employment contracts clearly defined the terms of employment, pay, and processes for termination. Generally, the employees reported that they were given accurate information on their terms of employment and pay rates. In addition, the employees reported that their employer did not have custody of any personal employee documents, such as work permits or identification cards. TCA reported paying its employees using direct deposits to minimize the risks associated with cash salary payments, while Ayad pays employees in cash. However, a review of time and pay records raised no concerns related to human trafficking.

⁸ Instances in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced has not attained 18 years of age are also defined as trafficking. These types of trafficking activities are considered “severe” forms of trafficking.

This detailed review provided no indication that the USAID/Egypt contractors were engaging in activities that could constitute human trafficking. As a result, the mission has some assurance that the contractors selected for this review are conforming to regulations prohibiting human trafficking. Consequently, we make no recommendations at this time.

USAID/Egypt Has Taken Actions to Combat Trafficking in Persons

USAID issued a Counter Trafficking in Persons Code of Conduct in January 2011. The Agency designed the code of conduct to increase USAID employees' awareness of human trafficking and educate them to "recognize, report, and address human trafficking offenses." Additionally, in April 2011, USAID provided guidance on implementation of the code by and at missions. That guidance identifies the following responsibilities:

- Missions are required to designate a Counter Trafficking in Persons Coordinator to serve as the primary point of contact for mission staff on human trafficking.
- Regional Legal Advisors are required to provide information on human trafficking during annual ethics training provided to USAID employees worldwide.
- Missions are encouraged to develop anti-trafficking-in-persons strategies across all technical areas and integrate anti-trafficking-in-persons components into ongoing programming.

In addition to these activities, USAID's Counter Trafficking in Persons Code of Conduct requires USAID/Washington's Human Resources Office to inform all candidates for USAID employment of the code before hiring them. However, the language of the code does not extend this requirement to USAID missions.

USAID/Egypt has taken steps to comply with the Agency's Counter Trafficking in Persons Code of Conduct, including designating a mission coordinator, providing training to employees and implementers, and ensuring that newly hired employees are aware of the code.

- **Counter Trafficking in Persons Coordinator.** USAID/Egypt officials appointed a COTR as the Counter Trafficking in Persons Coordinator in May 2011. The COTR is responsible for a mission project that addresses violence against women and children, including trafficking. Besides sharing information on trafficking with other mission employees, the coordinator is expected to act as a liaison between USAID/Egypt and USAID/Washington on human trafficking issues and has participated in the Agency-wide development of a counter trafficking strategy and action plan. These activities are part of the Agency's effort to increase USAID accountability by ensuring that contractors understand human trafficking issues and regulations. The coordinator plans to conduct training for USAID/Egypt employees on human trafficking issues, although no training dates have been set.
- **Annual Ethics Training.** As required by the code of conduct, USAID/Egypt's Regional Legal Advisors (RLAs) have included information on the U.S. Government's policy on human trafficking in the mission's annual ethics training. From October to December 2011, the RLAs provided information on human trafficking in four annual ethics training sessions attended by approximately 109 of 205 USAID/Egypt employees—U.S. direct hires and locally engaged staff. Observers of these sessions reported that USAID/Egypt employees

had multiple questions regarding trafficking, including questions on USAID/Egypt's and implementers' responsibilities when working with small or family-owned businesses.

- **Human Trafficking Information in Mission Activities.** As a proactive measure to further educate USAID/Egypt employees, mission officials have begun to incorporate information on human trafficking into ongoing activities, such as periodic planning meetings. Mission COTRs reported that the training has increased their understanding of human trafficking. According to the RLAs and USAID/Egypt technical office officials, between August and October 2011, the RLAs met with staffs of USAID/Egypt's five technical offices⁹ to brief them on their responsibilities related to human trafficking. Of 13 COTRs, 8 (62 percent) commented that the recent training was the only training on human trafficking they had received while employed at USAID.¹⁰ To further educate COTRs and agreement officer's technical representatives responsible for management oversight, USAID/Egypt's procurement office employees were working with the RLAs to incorporate information on human trafficking and the related FAR requirements into upcoming training on key standard provisions applicable to USAID projects, including regulations related to human trafficking, antiterrorism, and voluntary population planning.

USAID/Egypt officials also reported providing training on combating human trafficking to implementers. In October and November 2011, the RLAs reported providing training to implementers working on basic education projects, to new implementers working in the economic development sector, and to new and existing implementers in the democracy and governance sector.

- **New Employee Notification.** The USAID Counter Trafficking in Persons Code of Conduct does not specifically require missions to notify potential employees of the code. However, USAID/Egypt began sharing information on the code with potential employees in November 2011. USAID/Egypt's human resources officer believes that incorporating information on the code into vacancy announcements may not be practical because the term may not be easily understood. However, before they are hired, USAID/Egypt requires applicants to sign a memorandum on standards of conduct including the code on human trafficking.

As a result of the issuance of the USAID Counter Trafficking in Persons Code of Conduct and USAID/Egypt's efforts to increase employee awareness of human trafficking, mission employees' awareness of human trafficking is improving. Consequently, this review makes no recommendation to the mission regarding raising awareness of human trafficking among its employees.

⁹ The Office of Health and Population, the Office of Policy and Private Sector, the Office of Production Sector Development, the Office of Education and Training, and the Office of Democracy and Governance.

¹⁰ Four COTRs reported they had received no training at the time of our review because they had not yet participated in the ethics training. One other COTR reported receiving limited training on human trafficking shortly after being hired by USAID.

EVALUATION OF MANAGEMENT COMMENTS

USAID/Egypt provided its comments on our draft report and provided its plan of action for addressing each of the four recommendations in the draft review report. We have reviewed the response and determined that management decisions have been reached on all recommendations, and final action has been taken on Recommendation 2.

Recommendation 1. The mission agreed to review and modify its active contracts, as appropriate, to verify that clauses regarding combating trafficking in persons are included, as required by the FAR. USAID/Egypt modified seven of the nine contracts identified as not including the FAR clause on November 29, 2011. The mission plans to modify the remaining two contracts by March 31, 2012. Because human trafficking clauses are also required in assistance awards (grants and cooperative agreements), the mission also plans to undertake a review of all USAID/Egypt assistance awards in the near future. Moreover, USAID/Egypt's procurement office also plans to review all contracts, grants, and cooperative agreements for the USAID missions it supports in Lebanon, Morocco, and Yemen. Therefore, a management decision has been reached on this recommendation, with final action anticipated by March 31, 2012.

Recommendation 2. The mission agreed to collaborate with OAA to establish a mechanism for providing mission contracting officers with information on modifications to indefinite quantity contracts under which the mission has task orders. The mission began collaborating with OAA in November 2011. On November 28, 2011, the director of USAID/Egypt's procurement office requested that OAA identify a mechanism and further discussed this issue with OAA in December 2011. While an appropriate mechanism is still under development, USAID/Egypt worked to collaborate with OAA on this issue. Therefore, a management decision has been reached, and final action has been taken on this recommendation.

Recommendation 3. The mission agreed to remind its contracting officers, in writing, to conduct ongoing reviews of standard provisions in IQCs and relevant modifications and to include required standard provisions in mission task orders, if warranted. The director of USAID/Egypt's procurement office will issue a notice to mission contracting officers and procurement specialists by March 31, 2012, instructing them to review each USAID/Egypt task order to ensure that the task orders include all required standard provisions that are not included in the relevant IQC. As a proactive measure, the procurement office will also review task orders for each of the missions it supports in Lebanon, Morocco, and Yemen to ensure that the task orders include all required standard provisions not found in the relevant IQCs. Therefore, a management decision has been reached on this recommendation, with final action anticipated by March 31, 2012.

Recommendation 4. The mission agreed to remind its contracting officers, in writing, to provide COTRs with copies of any modifications to indefinite quantity contracts under which the mission has a task order, as warranted. The director of USAID/Egypt's procurement office will issue a notice to the mission's contracting officers and procurement specialists by March 31, 2012, requesting that they provide copies of modifications and standard provisions to the relevant COTRs. Therefore, a management decision has been reached on this recommendation, with final action anticipated by March 31, 2012.

SCOPE AND METHODOLOGY

Scope

The Regional Inspector General/Cairo conducted this review in accordance with the evidence and documentation standards in *Government Auditing Standards*, Paragraph 7.55 and Paragraphs 7.77 through 7.84.¹¹ Those standards require that we obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions, in accordance with our review objectives. We believe that the evidence obtained provides that reasonable basis.

The review objective was to determine whether (1) USAID/Egypt and its contractors established sufficient controls to prevent trafficking of persons and (2) USAID/Egypt's contractors and subcontractors engaged in trafficking in persons practices in selected programs. Review fieldwork was conducted at USAID/Egypt from October 17 to November 27, 2011. We reviewed 15 active USAID/Egypt contracts valued at approximately \$192 million as of September 30, 2011.¹² These contracts included a variety of mission activities, including technical support to the Government of Egypt and nongovernmental organizations, a scholarship program, and support services to USAID/Egypt. Security restrictions limited the areas we could visit, preventing us from conducting visits to one implementer identified as having recently employed low-wage, low-skill labor—labor at risk for trafficking. Because of this restriction on the scope of the review, we limited our conclusions to the items we could review.

In planning and performing the review, we assessed management controls related to documentation, management review, effective internal and external communication, and management of human capital. Specific management controls assessed included verifying that contracts and subcontracts contained the required language, reviewing activities in place to ensure mission and implementer awareness of human trafficking regulations, and reviewing documentation controls over processes for notifying new USAID/Egypt employees of anti-trafficking policies. We conducted the review through interviews with mission employees, implementers, and implementer employees; observations of mission and implementer activities; and review of reports and files provided by the mission. Specifically, we obtained an understanding of and evaluated USAID/Egypt's inclusion of required anti-human-trafficking contract language, implementation of the Agency's Counter Trafficking Code of Conduct activities, and oversight performed by the contracting officers or COTRs.

We conducted the review at USAID/Egypt in Cairo and visited implementer offices in Cairo. We also conducted site visits to one contractor's work site in Cairo and made observations of the working conditions of another contractor's employees at the USAID/Egypt office.

Methodology

To answer the review objectives, we reviewed contracts and relevant modifications to determine whether USAID/Egypt included required FAR language on human trafficking in all contracts active as of September 30, 2011. For task orders under USAID/Washington-managed IQCs,

¹¹ *Government Auditing Standards*, July 2007 Revision (GAO-07-731G).

¹² This number does not include contracts managed by USAID/Egypt's procurement office for other missions, USAID/Egypt personal service contracts, or one regional contract managed by the Office of Middle East Programs, located at USAID/Egypt.

we also reviewed the original IQC. We interviewed USAID/Egypt officials, including the Regional Legal Advisors, procurement and program office officials, the USAID/Egypt Counter Trafficking in Persons Coordinator, and mission implementers to gain an understanding of their awareness of the U.S. Government's policy on combating human trafficking and related requirements. We also interviewed the contracting officer's technical representatives for active contracts to determine their understanding of trafficking in persons and the controls established to mitigate the risks that USAID/Egypt contractors will engage in human trafficking. We considered the extent to which USAID/Egypt complied with requirements designed to prevent trafficking in persons.

To select contracts for a more in-depth analysis, we reviewed multiple documents related to trafficking in persons, including information specific to human trafficking concerns in Egypt. Using information from these documents and interviews, we determined that areas of high risk in the mission's portfolio of contracts were those that involved the use of low-skill, low-wage labor, such as contracts with construction, infrastructure repair, or maintenance components.

We selected a judgmental sample of three contracts valued at \$12 million that included activities with higher risk of trafficking or oversight of activities at risk of trafficking. For the three contracts, we interviewed implementer officials and reviewed ongoing subcontracts. Because testing was based on a judgmental sample, the results cannot be projected to the universe of all active contracts. However, we believe that our work provides a basis for our conclusion. On the basis of our review of the three selected contracts, we determined that only one contract had ongoing activities involving the use of low-wage or low-skill labor. We interviewed a statistical sample of the 25 contractor and subcontractor employees who work as janitors, gardeners, and business center and maintenance staff. The interview sample size allows the information obtained to be projected to the universe of low-wage, low-skill employees working under this contract. Further, we observed onsite working conditions for contractor and subcontractor employees; reviewed pay records for July, August, and September 2011; and reviewed employee contracts to determine whether anomalies existed that would indicate that human trafficking may be occurring.

We also reviewed applicable laws, regulations, and USAID policies and procedures regarding trafficking in persons. This included TVPA and its reauthorizations, including the Wilberforce Act; FAR 22.17 and 52.222–50, both entitled "Combatting Trafficking in Persons"; and the USAID Counter Trafficking in Persons Code of Conduct. In addition, we considered the applicability of Egyptian Law No. (64) of 2010 Regarding Combatting Human Trafficking, and sections of Law No. 12 of 1996 Promulgating the Child Law, as amended by Law No. 126 of 2008, for information related to Egyptian child labor standards.

MANAGEMENT COMMENTS



Memorandum

To: Jacqueline Bell, Regional Inspector General/Cairo

From: Walter North, Mission Director, USAID/Egypt/s/

Subject: Review of USAID/Egypt's Contractors' Compliance with the Trafficking Victims Protection Reauthorization Act of 2008 (Report Number 6-263-12-00X-S, dated December 4, 2011)

Date: December 15, 2011

The following is the Mission response to the above review.

Recommendation No. 1: We recommend that USAID/Egypt review and modify its active contracts, as appropriate, to verify that clauses regarding combating trafficking in persons are included, as required by the Federal Acquisition Regulation.

Mission Response:

The Mission concurs with this recommendation to ensure that clauses regarding combating trafficking in persons are included in its active contracts as required by Federal Acquisition Regulations and has already taken steps to complete this recommendation by March 31, 2012. Furthermore as such clauses are required in grants and cooperative agreements as well, the Mission's Procurement Office will undertake a review, in the near future, of all its assistance awards (grants and

UNITED STATES AGENCY for INTERNATIONAL DEVELOPMENT / EGYPT

USAID
1A Ahmed Kamel Street
off El-Laselki Street – New Maadi
Cairo - Egypt

IN-COUNTRY MAIL:
P.O. Box 32, Maadi
Cairo - Egypt
Postal Code: 11435

Tel: (202) 522 7000
Fax: (202) 516 4628
(202) 516 4659

cooperative agreements) for Egypt as well as all awards for other USAID missions it covers (Lebanon, Morocco and Yemen) and modify such awards, as appropriate, to include the applicable FAR or ADS clause on trafficking in persons.

In view of the above, USAID/Egypt believes that a management decision has been made for this recommendation and a copy of the modification for seven of the nine awards was already sent to the RIG the week of November 26, 2011. The target date for final action for the remaining two contracts at the Egypt Mission is March 31, 2012.

Recommendation No. 2: We recommend USAID/Egypt collaborate with USAID/Washington's Office of Acquisition and Assistance to establish a mechanism for providing mission contracting officers with information on modifications to indefinite quantity contracts under which the mission has task orders.

Mission Response:

The Mission concurs with this recommendation but believes that the needed action for modifying Washington based IQCs and notifying Missions that issued task orders under such IQCs of such modification is the responsibility of USAID/Washington Office of Acquisition and Assistance (OAA). However, the Mission's Procurement Office Director contacted OAA by e-mail the week of November 28, 2011 requesting that OAA identify such a world-wide notification mechanism. Several OAA managers are already involved in a discussion of this topic and further discussion will take place on the topic at the OAA conference the week of December 12, 2011. For the good of the Agency, such a mechanism cannot be designed solely for task orders issued by USAID/Egypt but needs to be done for world-wide use so that any and all IQC modification notices are provided to Missions worldwide that issue task orders under the applicable IQC.

In view of the above, the Mission believes that a management decision has been made for this recommendation. Furthermore, a copy of the e-mail to

UNITED STATES AGENCY for INTERNATIONAL DEVELOPMENT / EGYPT

USAID

1A Ahmed Kamel Street
off El-Laselki Street – New Maadi
Cairo - Egypt

IN-COUNTRY MAIL:

P.O. Box 32, Maadi
Cairo - Egypt
Postal Code: 11435

Tel: (202) 522 7000
Fax: (202) 516 4628
(202) 516 4659

OAA on the subject was sent to the RIG on November 28, 2011.

Recommendation No. 3: We recommend USAID/Egypt remind its contracting officers, in writing, to conduct ongoing reviews of standard provisions in indefinite quantity contracts and relevant modifications and to include required standard provisions in mission task orders, if warranted.

Mission Response

The Mission concurs with this recommendation as all clauses required by the FAR, such as the TIP clause, should be in all IQCs. By March 31, 2012, the Director of the Mission's Procurement Office will issue a notice to its Contracting Officers and Procurement Specialists instructing them to review each task order for Egypt to ensure each task order includes all required standard provisions not found in the applicable IQC in order to be in accordance with the FAR for all future task orders issued after March 31, 2012.

Furthermore the Mission's Procurement Office will review the task orders of its client missions (Lebanon, Morocco and Yemen) in the near future to ensure each task order includes all required standard provisions not found in the applicable IQC in order to be in accordance with the FAR .

In view of the above, the Mission believes that a management decision has been made and that final action will be based upon providing you with such USAID/Egypt notice to the Contracting Officers and Procurement Specialists for all Egypt Mission task orders. The Target Date for final action is March 31, 2012.

Recommendation No. 4: We recommend USAID/Egypt remind its contracting officers, in writing, to provide contracting officer's technical representatives with a copy of any modifications to indefinite quantity contracts under which the mission has a task order, as warranted.

Mission Response

The Mission concurs with this recommendation. In the Director of the

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Mission's Procurement Office written notice to the Contracting Officers and Procurement Specialists, in response to Recommendation #3, the notice will request that the Contracting Officers and Procurement Specialists provide the COTRs with a copy of any modifications and standard provisions to the IQCs under which the mission has a task order when received by the Contracting Officer, as warranted.

In view of the above, the Mission believes that a management decision has been made and that final action will be based upon providing you with such USAID/Egypt notice to the Contracting Officers and Procurement Specialists for all Egypt Mission task orders. The Target Date for final action is March 31, 2012.

End of Doc.

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Trafficking Victims Protection Act of 2000 Standards and Department of State Human Trafficking Classifications

TVPA defines the minimum standards for the elimination of trafficking as the following:

- “(1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.
- (2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.
- (3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.
- (4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.”

As required by TVPA, the U.S. Department of State produces an annual report to Congress providing information on countries’ efforts to reach compliance with the TVPA’s minimum standards. The Department of State has developed tiered systems for ranking countries’ compliance with the TVPA standards, as described on the following page.

U.S. Department of State Human Trafficking Classifications

Classification	Description
Tier 1	Countries whose governments fully comply with the TVPA's minimum standards for the elimination of trafficking.
Tier 2	Countries whose governments do not fully comply with the TVPA's minimum standards but are making significant efforts to bring themselves into compliance with those standards.
Tier 2 Watch List	<p>Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards AND:</p> <p>a) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;</p> <p>b) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecutions, and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials; or</p> <p>c) the determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional steps over the next year.</p>
Tier 3	Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.

The TVPA allows the U.S. Government to withhold or withdraw nonhumanitarian, non-trade-related foreign assistance to governments of countries in Tier 3. In addition, Tier 3 countries may not receive funding for government employees' participation in educational and cultural exchange programs.

The Wilberforce Act requires that any country that has been on the Tier 2 Watch List for 2 consecutive years and that would otherwise continue to be on the Tier 2 Watch List for the next year instead be ranked Tier 3 for the next year.

USAID/Egypt Contracts Active as of September 30, 2011 (Not Audited)

Program	Contractor	Dates	Purpose	Approximate Number of Contractor Employees*	Value (\$ Million)
Life Sinai	International Resources Group	8/2008 – 1/2012	To improve the livelihood of low-income Egyptians in the Sinai through the promotion of sustainable development and through community interventions that address basic needs while preserving cultural heritage.	4	9.0
Water Policy and Regulatory Reform	Chemonics International Inc.	10/2008 – 9/2012	To support the Government of Egypt to strengthen the policy, legal, and regulatory framework for water and wastewater.	4	17.6
Water and Wastewater Sector Support	Chemonics International Inc.	10/2008 – 9/2012	To support Government of Egypt efforts to promote sustainability of the water and wastewater sector.	31	17.9
Integrated Water Resource Management II	International Resources Group	1/2009 – 9/2012	To expand community and organizational development work for integrated water resource management, with a focus on sustainability and impact	16	9.6
Pyramids Plateau Ground Water Lowering	AECOM	10/2009 – 11/2011	To lower groundwater levels around the Great Sphinx in the pyramids plateau at Giza.	1	1.8
Egyptian Competitiveness Project	Chemonics International Inc.	8/2010 – 8/2013	To enhance Egypt's competitiveness through regulatory reform, streamlined business processes, improved labor skills and productivity, and financial sector modernization.	39	26.6
Trade Facilitation Project	Nathan Associates	6/2011 – 5/2014	To address key constraints to improving Egypt's trade environment, focusing on reform measures to enhance trade at the border and strengthening internal trade.	3	11.0

Program	Contractor	Dates	Purpose	Approximate Number of Contractor Employees*	Value (\$ Million)
Forecast MBA Program	World Learning Inc.	5/2011 – 12/2012	To provide support services for students from the Government of Egypt's Ministry of Health completing Masters of Business Administration programs begun under a prior USAID/Egypt contract.	2	0.3
Civil Society Support Project	Management Systems International Inc.	9/2010 – 9/2013	To support USAID/Egypt's civil society program activities and strengthen Egyptian civil society organizations.	9	8.2
Human Rights / Violence Against Women and Children	Chemonics International Inc.	6/2007 – 5/2012	To increase the capacity of the Government of Egypt to advocate for policies that protect women and children and respond to violence against this population.	24	18.1
Technology for Improved Learning Outcomes	Creative Associates	9/2007 – 3/2013	To improve the quality of teaching, learning, and school management through upgraded technology in select Egyptian schools.	24	31.3
Monitoring and Evaluation Project	JBS International	12/2009 – 1/2012	To provide technical assistance for monitoring and evaluating USAID/Egypt's education portfolio.	2	1.1
Girls' Improved Learning Outcomes	Research Triangle Institute	2/2008 – 9/2012	To improve learning outcomes in selected Egyptian schools by expanding girls' education, improving teaching and learning, and strengthening management and governance.	32	37.9
Observation Study Tour	World Learning	8/2011 – 10/2011	To conduct a study tour to introduce Ministry of Education officials to the U.S. science, technology, math magnet school model.	5	.1
USAID/Egypt Management Services	TransCentury Associates	8/2010 – 7/2013	To obtain management services for USAID/Egypt including operational, custodial, and maintenance services, telephone operator and receptionist services, and gardening services.	12	1.5
Total				208	192.0

* This reflects direct contractor long-term employees only, including both full- and part-time staff. Short-term consultants and subcontractor staff are not included.