

## 22.1703 Policy.

The *United States* Government has adopted a policy prohibiting trafficking in persons, including the trafficking-related activities below. Additional information about trafficking in persons *may* be found at the website for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/j/tip> . Government *solicitations* and contracts *shall-*

(a) Prohibit contractors, contractor *employees*, *subcontractors*, *subcontractor employees*, and their *agents* from-

(1) Engaging in *severe forms of trafficking in persons* during the period of performance of the contract;

(2) Procuring *commercial sex acts* during the period of performance of the contract;

(3) Using *forced labor* in the performance of the contract;

(4) Destroying, concealing, confiscating, or otherwise denying access by an *employee* to the *employee's* identity or immigration documents, such as passports or drivers' licenses, regardless of issuing authority;

(5)

(i) Using misleading or fraudulent practices during the recruitment of *employees* or offering of employment, such as failing to disclose, in a format and language understood by the *employee* or potential *employee*, basic information or making material misrepresentations during the recruitment of *employees* regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and associated costs (if employer or *agent* provided or arranged), any significant costs to be charged to the *employee* or potential *employee*, and, if applicable, the hazardous nature of the work;

(ii) Using recruiters that do not comply with local labor laws of the country in which the recruiting takes place;

(6) Charging *employees* or potential *employees* *recruitment fees*;

(7)

(i)

(A) Failing to provide return transportation or pay for the cost of return transportation upon the end of employment, for an *employee* who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or *subcontract*, for portions of contracts and *subcontracts* performed outside the *United States*; or

(B) Failing to provide return transportation or pay for the cost of return transportation upon the end of employment, for an *employee* who is not a *United States* national and who was brought into the *United States* for the purpose of working on a U.S. Government contract or *subcontract*, if the

payment of such costs is required under existing temporary worker programs or pursuant to a written agreement with the *employee* for portions of contracts and *subcontracts* performed inside the *United States*; except that-

(ii) The requirements of paragraph (a)(7)(i) of this section do not apply to an *employee* who is-

(A) Legally permitted to remain in the country of employment and who chooses to do so; or

(B) Exempted by an authorized official of the *contracting* agency, designated by the *agency head* in accordance with agency procedures, from the requirement to provide return transportation or pay for the cost of return transportation;

(iii) The requirements of paragraph (a)(7)(i) of this section are modified for a victim of trafficking in persons who is seeking victim services or legal redress in the country of employment, or for a witness in an enforcement action related to trafficking in persons. The contractor *shall* provide the return transportation or pay the cost of return transportation in a way that does not obstruct the victim services, legal redress, or witness activity. For example, the contractor *shall* also *offer* return transportation to a witness at a time that supports the witness' need to testify. This paragraph does not apply when the exemptions at paragraph (a)(7)(ii) of this section apply.

(8) Providing or arranging housing that fails to meet the host country housing and safety standards; or

(9) If required by law or contract, failing to provide an employment contract, recruitment agreement, or other required work document *in writing*. Such written document *shall* be in a language the *employee* understands. If the *employee* *must* relocate to perform the work, the work document *shall* be provided to the *employee* at least five days prior to the *employee* relocating. The *employee's* work document *shall* include, but is not limited to, details about work description, wages, prohibition on charging *recruitment fees*, work location(s), living accommodations and associated costs, time off, roundtrip transportation arrangements, grievance process, and the content of applicable laws and regulations that prohibit trafficking in persons. The *contracting officer* *shall* consider the risk that the contract or *subcontract* will involve services or *supplies* susceptible to trafficking in persons, and the number of non-U.S. citizens expected to be employed, when deciding whether to require work documents in the contract;

(b) Require contractors and *subcontractors* to notify *employees* of the prohibited activities described in paragraph (a) of this section and the actions that *may* be taken against them for violations;

(c) With regard to certification and a compliance plan-

(1)

(i) Require the apparent successful *offeror* to provide, before contract award, a certification (see [52.222-56](#)) that the *offeror* has a compliance plan if any portion of the contract or *subcontract*-

(A) Is for *supplies*, other than COTS items (see [2.101](#)), to be acquired outside the *United States*, or services to be performed outside the *United States*; and

(B) The estimated value exceeds \$550,000.

(ii) The certification *must* state that-

(A) The *offeror* has implemented the plan and has implemented procedures to prevent any prohibited activities and to monitor, detect, and terminate the contract with a *subcontractor* or *agent* engaging in prohibited activities; and

(B) After having conducted due diligence, either-

(1) To the best of the *offeror's* knowledge and belief, neither it nor any of its *agents*, proposed *subcontractors*, or their *agents*, has engaged in any such activities; or

(2) If abuses relating to any of the prohibited activities identified in [52.222-50\(b\)](#) have been found, the *offeror* or proposed *subcontractor* has taken the appropriate remedial and referral actions;

(2) Require annual certifications (see [52.222-50\(h\)\(5\)](#)) during performance of the contract, when a compliance plan was required at award;

(3)

(i) Require the contractor to obtain a certification from each *subcontractor*, prior to award of a *subcontract*, if any portion of the *subcontract*-

(A) Is for *supplies*, other than COTS items (see [2.101](#)), to be acquired outside the *United States*, or services to be performed outside the *United States*; and

(B) The estimated value exceeds \$550,000.

(ii) The certification *must* state that-

(A) The *subcontractor* has implemented a compliance plan; and

(B) After having conducted due diligence, either-

(1) To the best of the *subcontractor's* knowledge and belief, neither it nor any of its *agents*, *subcontractors*, or their *agents*, has engaged in any such activities; or

(2) If abuses relating to any of the prohibited activities identified in [52.222-50\(b\)](#) have been found, the *subcontractor* has taken the appropriate remedial and referral actions;

(4) Require the contractor to obtain annual certifications from *subcontractors* during performance of the contract, when a compliance plan was required at the time of *subcontract* award; and

(5) Require that any compliance plan or procedures *shall* be appropriate to the size and complexity of the contract and the nature and scope of its activities, including the number of non-U.S. citizens expected to be employed and the risk that the contract or *subcontract* will involve services or *supplies* susceptible to trafficking in persons. The minimum elements of the plan are specified at [52.222-50\(h\)](#);

(d) Require the contractor and *subcontractors* to-

(1) Disclose to the *contracting officer* and the agency Inspector General information sufficient to identify the nature and extent of an offense and the individuals responsible for the conduct;

(2) Provide timely and complete responses to Government auditors' and investigators' requests for documents;

(3) Cooperate fully in providing reasonable access to their facilities and staff (both inside and outside the U.S.) to allow *contracting* agencies and other responsible *Federal agencies* to conduct audits, investigations, or other actions to ascertain compliance with the Trafficking Victims Protection Act ([22 U.S.C. chapter 78](#)), Executive Order 13627, or any other applicable law or regulation establishing restrictions on trafficking in persons, the *procurement* of *commercial sex acts*, or the use of *forced labor*; and

(4) Protect all *employees* suspected of being victims of or witnesses to prohibited activities, prior to returning to the country from which the *employee* was recruited, and *shall* not prevent or hinder the ability of these *employees* from cooperating fully with Government authorities; and

(e) Provide suitable remedies, including termination, to be imposed on contractors that fail to comply with the requirements of paragraphs (a) through (d) of this section.

**Parent topic:** [Subpart 22.17 - Combating Trafficking in Persons](#)