



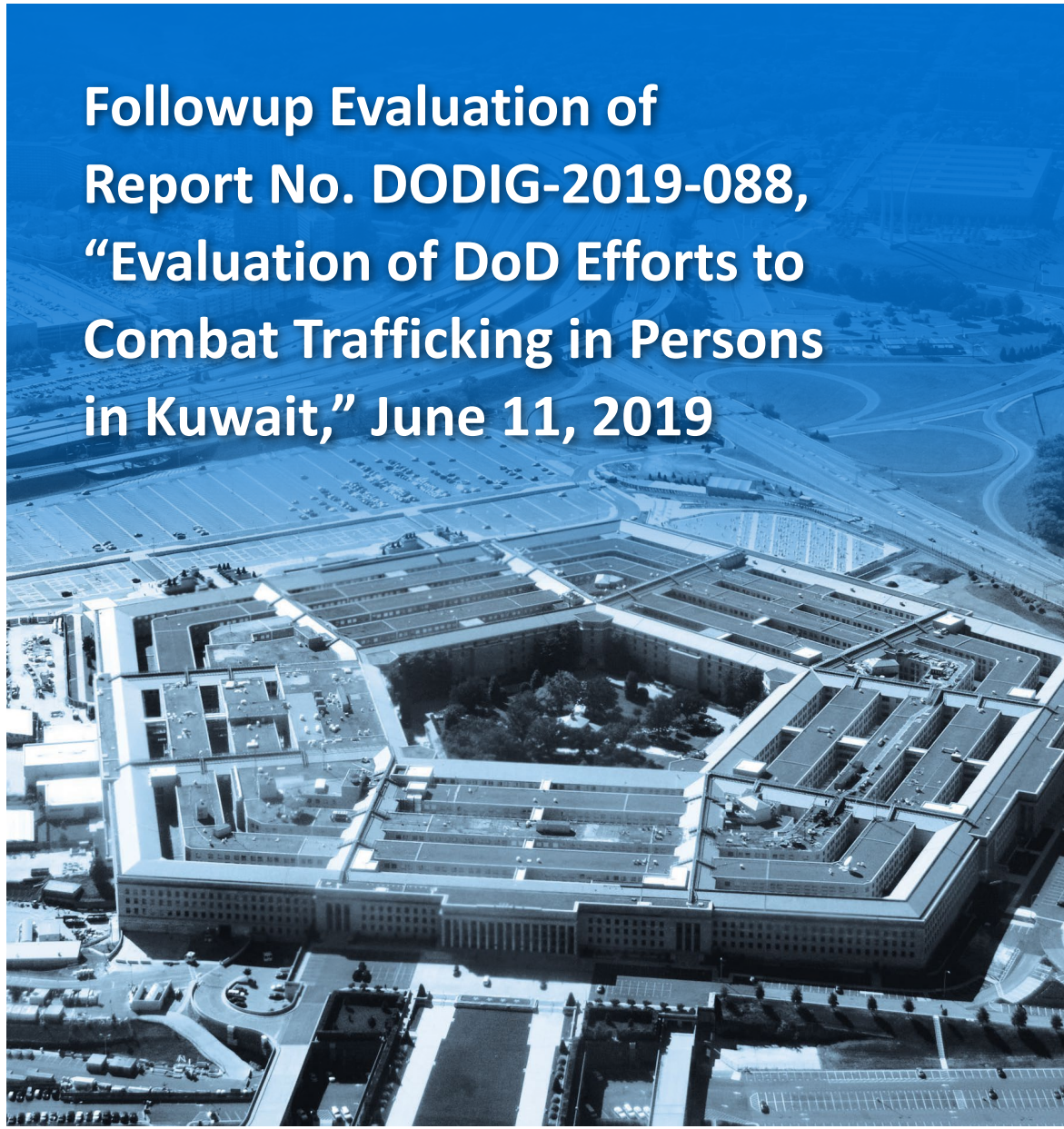
INSPECTOR GENERAL

U.S. Department of Defense

APRIL 8, 2022



Followup Evaluation of Report No. DODIG-2019-088, “Evaluation of DoD Efforts to Combat Trafficking in Persons in Kuwait,” June 11, 2019







Results in Brief

Followup of Report No. DODIG-2019-088, "Evaluation of DoD Efforts to Combat Trafficking in Persons in Kuwait," June 11, 2019

April 8, 2022

Objective

The objective of this followup evaluation was to determine whether the DoD implemented corrective actions for report recommendations in DODIG-2019-088, "Evaluation of DoD Efforts to Combat Trafficking in Persons in Kuwait," June 11, 2019 (the 2019 report).

Background

National Security Presidential Directive (NSPD) 22 established the goal of eradicating international trafficking in persons (TIP) and established a zero-tolerance policy for U.S. Government employees and contractors.¹ Public Law 115-425, section 112, "Ensuring United States procurement does not fund human trafficking," discusses agency requirements to ensure that the acquisition workforce and agency officials understand how to implement CTIP-related laws and regulations.² Title XVII of the FY 2013 National Defense Authorization Act (NDAA), "Ending Trafficking in Government Contracting," discusses the requirements for contracting, monitoring, and investigating for compliance with TIP laws and guidance.³

¹ National Security Presidential Directive 22, "Combating Trafficking in Persons," December 16, 2002.

² Public Law 115-425, "Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018," January 8, 2019.

³ Title XVII of the FY 2013 National Defense Authorization Act, "Ending Trafficking in Government Contracting," January 2, 2013.

Background (cont'd)

DoD Instruction 2200.01 was issued to implement NSPD 22 and Title XVII of the FY 2013 NDAA.⁴ The Federal Acquisition Regulation (FAR) was updated in 2015 to require that all Government contracts include FAR clause 52.222-50, "Combating Trafficking in Persons [CTIP]" (the FAR CTIP clause). The FAR CTIP clause prohibits contractors, contractor employees, and their agents from practices associated with TIP, such as withholding passports, charging recruitment fees, or providing wages and housing below host-nation standards.

The 2019 report, which included 22 recommendations, focused on the DoD organizations with the largest-value contracts on military installations in Kuwait or those installations that had a previous history of known TIP problems. The 2019 report found the following:

- the U.S. Central Command (USCENTCOM) did not consistently implement or enforce CTIP requirements in Kuwait (Finding A);
- DoD personnel did not consistently issue and administer contracts for goods and services in Kuwait in compliance with CTIP requirements (Finding B);
- DoD contracting organizations lacked a process for determining Kuwaiti labor law requirements (Finding C); and
- the 408th Contracting Support Brigade internally filled the need for specialized CTIP contract surveillance (Finding D).

The 2019 report also determined that no single DoD organization had oversight of all DoD contracts in Kuwait or had sole responsibility for contractors' compliance with CTIP requirements.

Of the 22 recommendations in the June 2019 report, 8 were unresolved, 13 were resolved and open, and 1 was closed.

⁴ DoD Instruction 2200.01, "Combating Trafficking in Persons (CTIP)," June 21, 2019.



Results in Brief

Followup of Report No. DODIG-2019-088, "Evaluation of DoD Efforts to Combat Trafficking in Persons in Kuwait," June 11, 2019

Findings

The U.S. Army Contracting Command-Rock Island (ACC-RI), the U.S. Air Forces Central (USAFCENT), and the Executive Director of the Army and Air Force Exchange Service (AAFES) implemented actions that met the intent of 14 of the 22 recommendations from our 2019 report.

One recommendation for AAFES to update its policy to allow for enhanced TIP monitoring was closed prior to publishing the 2019 report. The DoD OIG followup review team further determined that one of the eight unresolved recommendations—for AAFES to develop a process or resource for definitively determining Kuwaiti labor law requirements that allow for tailored TIP monitoring—was clarified and resolved by the DoD General Counsel after the 2019 report was published but prior to this report. That recommendation is now closed. However, 8 of the 22 recommendations from our 2019 report have not been fully implemented.

The followup review team found the following:

- DoD Instruction 2200.01 and Central Command Regulation 570-4 were revised to assign roles and responsibilities to commands regarding CTIP.
- USCENTCOM reports known CTIP cases to the CTIP Program Management Office (PMO).
- USCENTCOM does not need to formally designate a command headquarters in Kuwait to be responsible for CTIP compliance.
- ACC-RI and USAFCENT generally improved their CTIP program efforts by updating policy and communicating CTIP program efforts to their contracting community, specifically through training. However, ACC-RI and USAFCENT contracting officers did not ensure that:
 - the FAR CTIP clause and Alternate I FAR CTIP clause, or other required CTIP information in DoD contracts, was included and updated;

- every service contract that had a Quality Assurance Surveillance Plan (QASP) described how Contracting Officer's Representatives (CORs) would monitor the contractor's compliance with the FAR CTIP clauses; and
- contractor past performance data related to TIP was appropriately entered into the Contractor Performance Assessment Reporting System (CPARS).⁵
- The Air Force also did not include CTIP-related guidance in policies intended to support implementing and developing targeted TIP monitoring. Also, the Air Force did not show how its CTIP program was tailored to the Kuwait operational environment.
- The DoD General Counsel opined that the appropriate process for providing legal guidance for contractor compliance with relevant Kuwaiti labor laws is already in place. However, the followup team's analysis of 46 contracts found that none of the contracts addressed the specifics of Kuwaiti labor law, especially with regard to the Alternate I CTIP FAR clause for contracts performed outside of the United States.

Recommendations

Prior to starting this followup evaluation, the DoD OIG closed 3 of the 22 recommendations from our 2019 report. However, in this followup evaluation, we determined that those 3 recommendations should not have been closed. Specifically, recommendations from the original report to USAFCENT related to completing the Alternate I CTIP FAR clause, including CTIP-related information and monitoring guidance in QASPs and entering contractor past performance

⁵ CPARS is the Federal Government-wide solution for the collection of contractor performance information. The CPARS system is a web-enabled application that is accessed via the internet.



Results in Brief

Followup of Report No. DODIG-2019-088, "Evaluation of DoD Efforts to Combat Trafficking in Persons in Kuwait," June 11, 2019

Recommendations (cont'd)

information into the CPARS, are being reopened. A total of 8 recommendations from the original evaluation are considered open.

We also made recommendations that the Commander of Army Contracting Command-Rock Island and the Commander of U.S. Air Forces Central provide verification that the contracts we reviewed during this followup evaluation, listed in Appendixes F and G of this report, contain updated CTIP clauses, with a specific emphasis on the Alternate I CTIP clause, and inclusion of specific Kuwaiti labor law requirements to allow for tailored TIP monitoring.

Management Comments and Our Response

The Commander of Army Contracting Command-Rock Island agreed with the recommendation to provide verification that QASPs are prepared for all contracts that require them and that appropriate methods for monitoring the contractor's performance regarding TIP are included.

The Commander of U.S. Air Forces Central agreed with the recommendations to provide documentation to demonstrate that it has incorporated CTIP guidance in existing policies, such as the U.S. Air Forces Central Contracting Policy and Guidance Handbook, tailored to contracts performed in the U.S. Central Command area of responsibility.

The Commander of U.S. Air Forces Central agreed with the recommendations to include direction in contracts for monitoring contractor compliance of CTIP, to include the Alternate I CTIP FAR clause, in order to surveil contracts for CTIP prohibited activities and violations, especially as they relate to Kuwaiti labor laws, and verify that contracting officer's representatives

accomplish and document proper monitoring of contractor compliance with DoD CTIP regulations.

The Commander of U.S. Air Forces Central agreed with the recommendations to ensure that QASPs are prepared for all contracts that require them and include appropriate methods for monitoring the contractor's performance regarding trafficking in persons and document in the contract file how monitoring for compliance with the CTIP clause will be accomplished, and by whom, if a contract does not require a QASP.

The Commander of Army Contracting Command-Rock Island and the Commander of U.S. Air Forces Central agreed with the recommendation to provide documentation to demonstrate that contractor past performance information, including a documented CTIP review, both positive and negative, is entered promptly into CPARS.

The Commander of Army Contracting Command-Rock Island and the Commander of U.S. Air Forces Central also agreed to provide verification that the contracts we reviewed during this followup evaluation contain updated CTIP clauses, with a specific emphasis on the Alternate I CTIP clause, and inclusion of specific Kuwaiti labor law requirements to allow for tailored TIP monitoring.

Management comments addressed our recommendations; therefore, the recommendations are resolved and will remain open. We will close the recommendations once we verify that the information provided and actions taken by management fully addressed the recommendations.

Please see the Recommendations Table on the next page for the status of the recommendations.

Recommendations Table

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Commander of Army Contracting Command-Rock Island	None	B.1.b, B.1.e, C.1	None
Commander of U.S. Air Forces Central	None	A.2, B.1.a, B.1.b, B.1.c, B.1.d, B.1.e, C.2	None

Note: The following categories are used to describe agency management’s comments to individual recommendations.

- **Unresolved** – Management has not agreed to implement the recommendation or has not proposed actions that will address the recommendation.
- **Resolved** – Management agreed to implement the recommendation or has proposed actions that will address the underlying finding that generated the recommendation.
- **Closed** – OIG verified that the agreed upon corrective actions were implemented.



**INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500**

April 8, 2022

**MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR PERSONNEL
AND READINESS**

**COMMANDER, UNITED STATES CENTRAL COMMAND
COMMANDER, UNITED STATES AIR FORCES CENTRAL
COMMANDER, ARMY CONTRACTING COMMAND-ROCK ISLAND
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
EXECUTIVE DIRECTOR, ARMY AND AIR FORCE EXCHANGE SERVICE**

**SUBJECT: Followup Evaluation of Report No. DODIG-2019-088, "Evaluation of DoD Efforts
to Combat Trafficking in Persons in Kuwait," June 11, 2019
(Report No. DODIG-2022-082)**

This final report provides the results of the DoD Office of Inspector General's followup evaluation. We provided copies of the draft report and requested written comments on the recommendations. We considered management's comments on the draft report when preparing the final report. These comments are included in the report.

The Commander of Army Contracting Command-Rock Island and the Commander of U.S. Air Forces Central agreed to address the recommendations presented in the report; therefore, we consider the recommendations resolved and open. As described in the Recommendations, Management Comments, and Our Response section of this report, we will close the recommendations when we obtain documentation showing that all agreed-upon actions to implement the recommendations are completed. Therefore, we request that they provide us within 90 days their responses concerning specific, in process, or completed actions on these five recommendations. Send the responses to either [REDACTED]
[REDACTED]

We appreciate the cooperation and assistance received during the evaluation. If you have any questions, please contact [REDACTED]

A handwritten signature in black ink, appearing to read "J DuBinok", is positioned above the name "Jefferson DuBinok".

**Jefferson DuBinok
Acting Assistant Inspector General for
Programs, Combatant Commands, and
Overseas Contingency Operations**



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Introduction

Objective

The objective of this followup evaluation was to determine whether the DoD implemented corrective actions for report recommendations in DODIG-2019-088, “Evaluation of DoD Efforts to Combat Trafficking in Persons in Kuwait,” June 11, 2019 (the 2019 report). See Appendix A for the Scope and Methodology and the Glossary for a definition of the technical terms used in this report.

Background

National Security Presidential Directive (NSPD) 22 establishes the goal of eradicating international trafficking in persons (TIP) and established a zero-tolerance policy for U.S. Government employees and contractors. In addition, Title XVII of the FY 2013 National Defense Authorization Act (NDAA), set forth requirements for:

- Contracting;
- compliance plans for and certification of measures implemented to mitigate the risk of TIP violations;
- monitoring and investigation of trafficking in persons;
- notification to Inspectors General by recipients of grants, contracts, or cooperative agreements of suspected TIP violations and cooperation with Government agencies conducting audits, investigations, or corrective actions relating to TIP;
- expansion of penalties for fraud in foreign labor contracting to include attempted fraud and work outside the United States; and
- improving DoD accountability for reporting TIP claims and violations.

DoD Instruction 2200.01 was issued in April 2015 to implement NSPD 22 and Title XVII of the FY 2013 NDAA. DoD Instruction 2200.01 states that it is DoD policy to oppose prostitution, forced labor, and any related activities contributing to the phenomenon of TIP. It is also DoD policy to deter activities of Service members, civilian employees, indirect hires, DoD contractors, foreign national employees of DoD grant and cooperative agreement recipients, and all dependents that could facilitate or support TIP, domestically and overseas.

The Federal Acquisition Regulation (FAR) was updated in 2015 to require that all Government contracts include FAR clause 52.222-50, “Combating Trafficking in Persons” (the FAR CTIP clause). The FAR CTIP clause prohibits contractors,

contractor employees, and their agents from practices associated with TIP, such as withholding passports, charging recruitment fees, or providing wages and housing below host-nation standards.

For the 2019 evaluation, we initiated fieldwork after military criminal investigators substantiated that a DoD contractor violated the FAR CTIP clause. The contractor, which operated food services for U.S. and Coalition personnel on two installations located in Kuwait, failed to pay its employees the legally required minimum monthly salary. In our 2019 evaluation, we found that to obtain work in Kuwait, employees had to pay recruitment fees, putting them in a “state of enslaved bondage” for the contractor because most of the employees’ salary went to paying off the debt for the fee and its accrued interest. Furthermore, military criminal investigators also substantiated that the contractor violated various tenets of human trafficking laws by enforcing a 7-day-a-week, 12-hour-workday schedule without overtime and no permissible sick leave or regular days off while also providing substandard housing.

In 2003, the United Nations General Assembly adopted a protocol to prevent, suppress, and punish the trade in people—especially that of women and children—marking a significant milestone in international efforts to stop TIP. A majority of U.N. member states have now signed and ratified the protocol.⁶

In accordance with NSPD 22, the U.S. Government adopted a “zero-tolerance” policy for human trafficking among U.S. Government employees and contractors; however, DoD criminal investigators and contracting officials continued to substantiate cases of human trafficking by U.S. Government contractors on U.S. military bases in Kuwait. From 2015 to 2017, U.S. Army investigators found that four companies operating on military installations in Kuwait violated various tenets of human trafficking laws, such as failing to pay employees a full salary, withholding passports, charging excessive recruitment fees, and housing employees in substandard living conditions. The Army’s Suspension and Debarment Office proposed debarring these companies and some of their executives, which prohibits the companies from competing for U.S. Government contracts for 3 years. Based on the results of the Army’s investigations, the Army’s Suspension and Debarment Official debarred one of the companies, two companies withdrew from working for the prime contractor, and a fourth company negotiated an administrative compliance agreement with the Army’s Suspension and Debarment Official.

⁶ Chapter II, Article 3 of the United Nations Charter says, “The original members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110.”

Our 2019 report, which included 22 recommendations, focused on the DoD organizations with the largest-value contracts on military installations in Kuwait or those contractors that had a previous history of known TIP problems. We found the following in our 2019 report:

- USCENTCOM did not consistently implement or enforce CTIP requirements in Kuwait implementation (Finding A);
- DoD personnel did not consistently issue and administer contracts for goods and services in Kuwait in compliance with CTIP requirements (Finding B);
- DoD contracting organizations lacked a process for determining Kuwaiti labor law requirements (Finding C); and
- the 408th Contracting Support Brigade internally filled the need for specialized CTIP contract surveillance (Finding D).

Also, no single DoD organization had oversight of all DoD contracts in Kuwait or had sole responsibility for contractors' compliance with CTIP requirements. Of the 22 recommendations in the June 2019 report, 8 were unresolved, 13 were resolved and open, and 1 was closed.

Federal Law and Executive Policy

Since 2000, Congress has enacted legislation to address different aspects of human trafficking, including the "Trafficking Victims Protection Act of 2000" and its reauthorizations in 2003, 2005, 2008, and 2013.⁷ The Act is the cornerstone law for current U.S. policy to combat human trafficking. The Act states, "The purposes of this division are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims."

In 2002, the President issued NSPD 22, which established the U.S. Government-wide goal of eradicating international trafficking in persons and included a zero-tolerance policy for U.S. Government employees and contractors. The directive also called on Federal departments, including the DoD, to develop and implement training to combat trafficking in persons. NSPD 22 states that Department heads may review all aspects of their internal organizations, including their internal personnel requirements and budgets, to accommodate provisions of the Directive.

⁷ Public Law 106-386, "Trafficking Victims Protection Act of 2000," October 28, 2000.

On September 25, 2012, the President signed Executive Order 13627, which mandates that the Federal Acquisition Regulatory Council revise existing contractor guidelines for preventing human trafficking, including prohibiting the following:

- using misleading or fraudulent recruitment practices, such as failing to disclose basic information like wages and costs charged to the employee;
- charging recruitment fees;
- destroying or confiscating employee identification documents; and
- failing to pay return transportation costs for employees at the end of their employment.⁸

Executive Order 13627 also mandated that the Federal Acquisition Regulatory Council revise guidelines to require contractors and subcontractors to:

- cooperate fully with U.S. Government agencies conducting audits or investigating TIP allegations; and
- establish CTIP compliance plans when the services or supplies being provided are valued at more than \$500,000.

This Executive Order was implemented on March 2, 2015, when the Federal Acquisition Regulatory Council published a final rule amending the FAR, which applies to all new contracts and future orders. The DoD published a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the DoD's anti-trafficking policy and supplement Government-wide changes. The DFARS amendment took effect on January 29, 2015.

Roles and Responsibilities for the Department of Defense Combating Trafficking in Persons Programs

In DoD Instruction 2200.01, the Secretary of Defense designated roles and responsibilities for the DoD CTIP programs to several DoD components.

The Director of the Defense Human Resources Activity

The Director of the Defense Human Resources Activity establishes and oversees the CTIP Program Management Office (PMO), collaborates with U.S. Federal and state agencies that address TIP, and serves as the DoD liaison to Federal and state committees and advisory groups, as appropriate. Additionally, the Director of the Defense Human Resources Activity collects and compiles data received from the DoD components and prepares reports for internal and external stakeholders, when necessary, on DoD contractor adherence to DoD CTIP policy consistent

⁸ Executive Order 13627, "Strengthening Protections Against Trafficking in Persons in Federal Contracts," September 25, 2012.

with FAR subpart 22.17 and clause 52.222-50. The Director of the Defense Human Resources Activity also assesses DoD components' compliance with this issuance and the effectiveness of their CTIP programs by reviewing component self-assessments and analyzing DoD component reporting on suspected TIP incidents, TIP investigations, TIP prosecutions, and training programs.

The CTIP Program Management Office and the CTIP Task Force

The CTIP PMO establishes policy and assigns responsibilities for CTIP and ensures that the Services, combatant commands, and Defense agencies have the necessary tools to prevent trafficking. The DoD CTIP Task Force is the primary avenue for DoD and partner communities to coordinate prevention efforts and bring consistency to the DoD CTIP program. The CTIP Task Force promotes and facilitates DoD-wide sharing of lessons learned, best practices, and methodologies to most effectively minimize the possibility of TIP offenses by DoD personnel. It also assists the Office of the Under Secretary of Defense for Personnel and Readiness in providing support to TIP programs throughout the DoD, including training and awareness programs.⁹

The DoD General Counsel

The DoD General Counsel provides advice and assistance to the DoD CTIP PMO on all TIP legal matters and reviews and coordinates on all proposed TIP policies, regulations, directives, and instructions, and all proposed exceptions to DoD CTIP policy.

The DoD Component Heads

The DoD Component heads provide the CTIP PMO, by November 30th of each year, with information for inclusion in the CTIP Annual Self-Assessment report, which highlights efforts taken to ensure that U.S. Government contractors and their employees or U.S. Government subcontractors and their employees do not engage in TIP. DoD Component heads include data on DoD contractor adherence to DoD CTIP policy consistent with FAR subpart 22.17 and clause 52.222-50. Component heads also provide results of annual self-assessments at the DoD component or combatant command level that assesses strengths, weaknesses, and effectiveness of the program's implementation. These assessments include analyzing component reporting on suspected TIP incidents, investigations, prosecutions, indictments, convictions, and training programs. Commanders and directors outside

⁹ The following organizations are standing Task Force members: the Joint Staff; the Military Services; the combatant commands; the DoD General Counsel; the Office of the Under Secretary of Defense for Policy; and the Office of the Under Secretary of Defense for Acquisition and Sustainment (Defense Contract Management Agency, Defense Logistics Agency, and Defense Pricing and Contracting).

the United States are required to engage local host-nation government agencies to facilitate mutual understanding of processes and procedures to enable collaboration in CTIP efforts, as appropriate.

The Combatant Commanders

Combatant commanders are required to develop a program that establishes a clear set of guidelines and procedures for units outside the United States to address TIP in their operating environments. This includes CTIP policies and reporting procedures applicable to the mission or operation for which forces are deploying. Combatant commanders are also responsible for developing and implementing CTIP policy and program guidance unique to each combatant command, including unique cultural and legal considerations for their respective areas of responsibility. Combatant commanders also require subordinate commanders and directors outside the United States to engage with local host nation government agencies to facilitate mutual understanding of processes and procedures to enable collaboration in CTIP efforts, as appropriate.

Finding A

USCENTCOM Updated Policy and Coordinated With the CTIP PMO; However, USAFCENT Did Not Fully Implement Recommendations to Develop and Implement a CTIP Program

In our 2019 report, we determined that U.S. Central Command (USCENTCOM) senior leaders did not consistently enforce the requirements in the 2015 DoD Instruction 2200.01 and the 2008 Central Command Regulation (CCR) 570-4 regarding the identification of TIP and the oversight of CTIP in Kuwait.¹⁰ However, USCENTCOM updated CCR 570-4 in November 2019 to enforce all aspects of CTIP (Recommendation A.1.a), including coordinating TIP-related information with the CTIP PMO (Recommendation A.1.c). Also, the DoD updated DoD Instruction 2200.01 in June 2019, and USCENTCOM revised CCR 570-4 in November 2019, to better align its CTIP policy with the revised DoD Instruction 2200.01. These policy revisions improve oversight of CTIP in Kuwait by:

- clearly assigning roles and responsibilities to its subordinate commands regarding CTIP compliance (part of Recommendation A.1.b); and
- collecting and reporting data on all TIP incidents, investigations, and prosecutions, and training programs in the USCENTCOM area of responsibility (AOR) to the DoD's CTIP PMO (Recommendation A.1.c).¹¹

In addition, in the 2019 report we recommended that USCENTCOM formally designate a command headquarters in Kuwait to be responsible for CTIP compliance. However, the DoD OIG followup review team concluded that in accordance with Joint Publication 4-10, geographic combatant commands do not have contracting authority, and the DoD General Counsel believes the process for CTIP compliance is already in place at the contracting command level. Therefore, USCENTCOM did not need to formally designate a central office to monitor CTIP compliance in Kuwait (also part of Recommendation A.1.b).¹²

¹⁰ DoD Instruction 2200.01, "Combating Trafficking in Persons (CTIP)," April 21, 2015, (Incorporating Change 1, April 5, 2017). Central Command Regulation 570-4, "Combating Trafficking in Persons," May 22, 2008.

¹¹ DoD Instruction 2200.01, "Combating Trafficking in Persons (CTIP)," June 21, 2019. Central Command Regulation 570-4, "Combating Trafficking in Persons," November 15, 2019.

¹² Joint Publication 4-10, "Operational Contract Support," March 4, 2019, Chapter 1, paragraph 6b, "Command Authority," states that combatant command (command authority), prescribed in title 10, United States Code, section 164, includes the authority to direct functions involving organizing and employing commands and forces, assigning tasks and designating objectives, and giving authoritative direction over all aspects of an operation. However, it does not include authority to make binding contracts or modify existing contracts for the U.S. Government. It is also important to note that geographic combatant commands do not have their own contracting authority. The geographic combatant commands direct and coordinate contingency contracting support primarily through their subordinate Service components. Additionally, command authority does not include the authority to direct contractor or contractor personnel actions outside the terms and conditions of their contract.

We also recommended in our 2019 report that the Commander of U.S. Air Forces Central (USAFCENT) develop and implement a CTIP program, as required by CCR 570-4 (Recommendation A.2). However, USAFCENT did not fully implement our recommendations to develop and implement its CTIP program. This occurred because USAFCENT officials responsible for implementing and enforcing DoD and USCENTCOM CTIP guidance in Kuwait were unaware of their responsibilities and did not understand that they had the primary responsibility for monitoring CTIP.

The DoD OIG evaluation review team also found that USAFCENT did not incorporate CTIP guidance into existing policies, such as the USAFCENT Contracting Policy and Guidance Handbook, to support implementing and developing targeted CTIP guidance that addresses its CTIP program, nor did the USAFCENT show how its CTIP program is tailored to the Kuwaiti operational environment. For example, USAFCENT still did not ensure that all contracts contained the most current Alternate I CTIP clause that provides specific Kuwaiti labor law information to assist with CTIP-related contract surveillance.

To evaluate if USCENTCOM and USAFCENT met the intent of recommendations A.1.a through A.1.c, and A.2, the DoD OIG followup review team interviewed USCENTCOM and USAFCENT officials and reviewed documentation provided by USCENTCOM and USAFCENT.

USCENTCOM Updated CTIP Policy and Coordinated With the CTIP PMO

USCENTCOM updated CTIP policy and coordinated with the CTIP PMO. In our 2019 report, we determined that USCENTCOM senior leaders did not consistently enforce the requirements in DoD Instruction 2200.01 and CCR 570-4 regarding the identification of TIP and the oversight of CTIP in Kuwait. However, the DoD updated DoD Instruction 2200.01 in June 2019 and USCENTCOM senior leaders revised CCR 570-4 in November 2019 to better align with the revised DoD Instruction 2200.01 and to enhance the oversight of CTIP in Kuwait, including:

- clearly assigning roles and responsibilities to its subordinate commands regarding CTIP compliance; and
- requiring the collection and reporting of data on all TIP incidents, investigations, prosecutions, and training programs in the USCENTCOM AOR to the DoD's CTIP PMO.

USCENTCOM CTIP Policy Updates and Program Implementation in Conjunction With DoD Policy Updates

In our 2019 report, we recommended that the USCENTCOM Commander enforce all aspects of CCR 570-4 throughout the command's AOR. In response to Recommendation A.1.a and part of Recommendation A.1.b, the USCENTCOM

Chief of Staff, responding for the USCENTCOM Commander, disagreed with our recommendation. The Chief of Staff stated that implementation of CCR 570-4 was on hold until DoD Instruction 2200.01, which was in the coordination process, was published. The Chief of Staff stated that CCR 570-4 would be updated to reflect how USCENTCOM should function in relation to CTIP and that USCENTCOM would enforce the elements of the updated DoD Instruction 2200.01 that were within its authority. The Chief of Staff also stated that DoD Instruction 2200.01 identified TIP intelligence as a combatant commander responsibility and that CCR 570-4 assigned responsibility for TIP intelligence to the USCENTCOM Intelligence Directorate (CCJ2). The Chief of Staff stated that this intelligence responsibility assigned to the CCJ2 appeared to conflict with intelligence oversight requirements that forbid intelligence collection on U.S. persons (citizens, resident aliens, or corporate entities). USCENTCOM believed that the 2015 version of DoD Instruction 2200.01 would have created intelligence oversight issues if it had been followed closely. We believe that USCENTCOM misinterpreted the April 21, 2015, version of DoD Instruction 2200.01 because, while TIP “intelligence” might equate to intelligence collection, it does not, in most cases, entail collection on U.S. citizens, aliens and corporations. Also, the word “intelligence” was removed from the June 2019 update of DoD Instruction 2200.01, and the USCENTCOM CCJ2’s responsibilities were removed from the November 2019 update of CCR 570-4.

DoD Instruction 2200.01 was updated on June 21, 2019, and requires combatant commands to:

- develop a program that establishes a clear set of guidelines and procedures for units outside the United States to address TIP in their operating environments. This includes CTIP policies and reporting procedures applicable to the mission or operation for which forces are deploying;
- develop and implement CTIP policy and program guidance unique to each combatant command, including unique cultural and legal considerations for their respective areas of responsibility; and
- require commanders and directors outside the United States to engage with local host nation government agencies to facilitate mutual understanding of processes and procedures to enable collaboration in CTIP efforts, as appropriate.

To that end, USCENTCOM updated CCR 570-4 on November 15, 2019, to reflect the actions that can be taken within the USCENTCOM authorities. The removal of tasks that required authorities not held at the combatant command level, such as not having contracting authority, has allowed it to be enforced.

The updated CCR 570-4 establishes procedures and assigns responsibilities for the implementation of CTIP awareness training and the identification and oversight of CTIP in the USCENTCOM AOR. CCR 570-4 states that eliminating TIP, to include sexual exploitation, involuntary servitude, and debt bondage, must be a continuing focal point of the command. Most CTIP violations in the USCENTCOM AOR are associated with labor violations. Violations could include confiscating employee passports or visas, not providing return transportation after the contract has been completed, and payment of recruitment fees or providing housing that does not meet Kuwaiti health and safety standards. In support of the goal of promoting CTIP awareness, TIP awareness training is mandatory for all DoD military, civilian, and contractor personnel deploying overseas.

As recommended in A.1.b in our 2019 report, the revised CCR 570-4 clearly defines the roles and responsibilities of all personnel assigned to Headquarters USCENTCOM, Service Component Commands, Joint Task Force Commands, Security Cooperation Organizations, and Offices of Military Cooperation in the USCENTCOM AOR. CCR 570-4 also applies to any DoD contractor performing work on DoD contracts in the USCENTCOM AOR.

Specifically, CCR 570-4 also requires the USCENTCOM Manpower and Personnel Directorate (CCJ1); Logistics Directorate (CCJ4); Strategy, Plans, and Policy Directorate (CCJ5); Staff Judge Advocate (CCJA); Inspector General (CCIG); and authorized contracting offices, as designated by the Service components, to establish measures outlined in the Regulation to assist in TIP recognition, awareness, and elimination in accordance with all applicable DoD guidance. CCR 570-4 further requires that all component and Joint Task Force commands establish mandatory CTIP awareness training and policies to recognize and eliminate TIP in accordance with the Regulation and all applicable DoD and Service guidance.

CCR 570-4 also states that the cognizant contracting office, as designated by the Service component responsible for contracting in each country or region, must ensure that current DoD policy guidance and any applicable clauses are incorporated by contracting officers through the contracting activity's local policy and (if applicable) theater business clearance procedures, when the place of performance is within the USCENTCOM AOR.¹³ It also requires that all

¹³ According to FAR subpart 2.101, "A contracting officer means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the contracting officer acting within the limits of their authority as delegated by the contracting officer. "Administrative contracting officer (ACO)" refers to a contracting officer who is administering contracts. "Termination contracting officer (TCO)" refers to a contracting officer who is settling terminated contracts. A single contracting officer may be responsible for duties in any or all of these areas. Reference in this regulation (48 C.F.R., chapter 1) to ACO or termination contracting officer does not require that a duty be performed at a particular office or activity; or restrict in any way a contracting officer in the performance of any duty properly assigned."

component and Joint Task Force commands develop CTIP policy and programs, to include awareness training unique to the cultural and legal considerations for each area of operations.

DoD Instruction 2200.01 and CCR 570-4 clearly assign roles and responsibilities to commands regarding CTIP. Therefore, recommendations A.1.a and part of A.1.b, which were unresolved in the 2019 report, are now resolved and closed.

USCENTCOM Collected and Reported Data on All TIP Incidents, Investigations, Prosecutions, and Training Programs in the USCENTCOM AOR to the DoD's CTIP PMO

In our 2019 report, we recommended that the USCENTCOM Commander collect and report data on all TIP incidents, investigations, prosecutions, and training programs in the USCENTCOM AOR to the DoD's CTIP PMO (Recommendation A.1.c).

The USCENTCOM Chief of Staff, responding for the USCENTCOM Commander, disagreed with Recommendation A.1.c, stating that the USCENTCOM IG recorded and reported all allegations of TIP incidents it received in accordance with the procedures outlined by DoD Hotline reporting guidelines.¹⁴ However, the Chief of Staff stated that USCENTCOM was unable to fully meet the intent of (the 2015 version) DoD Instruction 2200.01 and (the 2008 version) CCR 570-4 because DoD Instruction 2200.01 directs all TIP reporting to be submitted directly to the DoD Hotline. The Chief of Staff further stated that TIP incidents are criminal by nature and that DoD Instruction 5505.16 limits the involvement of DoD components without law enforcement authority to administrative investigations only.¹⁵ The Chief of Staff stated that the DoD Hotline refers TIP allegations to the DoD OIG's Defense Criminal Investigative Service for evaluation and potential referral to a military criminal investigation organization, such as the Army Criminal Investigation Command or the Air Force Office of Special Investigations, or another appropriate Federal agency. The USCENTCOM IG is not notified by DoD Hotline or Defense Criminal Investigative Service personnel of TIP allegations, referrals, or prosecutions. As a result, USCENTCOM is not aware of all TIP incidents, investigations, prosecutions, and training programs in the USCENTCOM AOR. The Chief of Staff stated that the USCENTCOM IG recorded all TIP cases in the AOR that

¹⁴ The DoD OIG maintains the DoD Hotline Program. The mission of the DoD Hotline is to provide a confidential, reliable means to report violations of law, rule, or regulation; fraud, waste, and abuse; mismanagement; trafficking in persons; serious security incidents; or other criminal or administrative misconduct that involve DoD personnel and operations, without fear of reprisal.

¹⁵ DoD Instruction 5505.16, "Investigations by DoD Components," June 23, 2017, states that DoD components will not conduct criminal investigations unless the agency or organization has law enforcement authority established by statute in the United States Code, or IG authority, as prescribed by the IG Act of 1978, as amended, or as granted by the Secretary of Defense under section 2672, title 10, United States Code.

were either reported to or discovered by the USCENTCOM IG in its automated case tracking system, referred the cases to the DoD Hotline, and reported the cases as part of the command's annual CTIP report to the CTIP PMO.

Based on the followup review team's examination of the self-assessment reporting and USCENTCOM's original and current responses, we determined that USCENTCOM reported the CTIP cases that are known to USCENTCOM. However, USCENTCOM cannot require that the Services or Defense Criminal Investigative Service provide USCENTCOM with USCENTCOM-specific information regarding CTIP allegations and investigations within its AOR that are reported outside its reporting channels. According to USCENTCOM officials, the reporting service or investigating agency, including the DoD OIG's Defense Criminal Investigative Service, reports that information to the DoD CTIP PMO. The CTIP PMO annually tasks USCENTCOM and other DoD components for information on their TIP programs and efforts. The CTIP PMO then assesses and compiles the information received to provide data for the annual Attorney General report and the Department of State's annual TIP report (see Appendix B for the last 5 years of Departments of State and Justice annual TIP reports). Accordingly, the USCENTCOM actions taken and supporting documentation fulfill the written guidance for reporting CTIP matters.

USCENTCOM is currently undergoing a revision to CCR 570-4, and USCENTCOM personnel stated that there is also a proposed wording change to paragraph 6 that removes the word "confirmed" from the type of TIP incidents to report and adds "if known" where it weighs what information to report to the USCENTCOM IG. According to USCENTCOM personnel, a "confirmed" case can only be confirmed by a law enforcement agency. USCENTCOM has no subordinate organizations that would qualify as a law enforcement agency, and USCENTCOM does not want subordinate organizations to delay reporting in order to await the details listed in DoD Instruction 2200.01, which would only be available after a TIP case has run its complete course. Therefore, Recommendation A.1.c is resolved and closed.

USCENTCOM Did Not Need to Formally Designate a Central Office to Enhance Oversight of CTIP in Kuwait

In our 2019 report, we recommended that USCENTCOM formally designate a command headquarters in Kuwait to be responsible for CTIP compliance; however, the DoD General Counsel disagreed with our recommendation and determined that the appropriate process for CTIP compliance was already in place. The DoD General Counsel stated that the acquisition counsel advising the contracting activity's contracting officer is in the best position to advise on all aspects of contract compliance, to include consideration of any unique program guidelines and procedures issued by the relevant geographic combatant command, as applicable.

In addition, Joint Publication 4-10 states that geographic combatant commands do not have contracting authority. Therefore, the DoD OIG followup review team concluded that USCENTCOM did not need to formally designate a central office to enhance oversight of CTIP in Kuwait, and closed the second part of recommendation A.1.b.

USCENTCOM Response to Formally Designating a Central Office to Enhance Oversight of CTIP Compliance in Kuwait

In response to the second part of recommendation A.1.b, the USCENTCOM Chief of Staff, responding for the USCENTCOM Commander, disagreed with our recommendation that USCENTCOM formally designate a central office to enhance oversight of CTIP in Kuwait, stating that the Service components do not always have a headquarters in-country to allow for formally designated responsibility for CTIP compliance throughout the AOR. The Chief of Staff further stated that it would be impractical to designate a Service component with CTIP responsibility for an entire country because it would “cause one Service component to oversee another service component,” potentially resulting in missing Service-specific guidance.

In addition, the DoD OIG followup review team concluded that requiring each component and Joint Task Force to designate a CTIP POC to address CTIP issues under their respective authorities is more aligned with the revised CCR 570-4. The revised CCR 570-4 established the requirement for all components, including the Joint Task Forces, to designate a CTIP point of contact to work CTIP issues within their respective authorities. This also addresses Kuwait, as the contracting commands in Kuwait would be under their components’ CTIP policies and guidance as well as criminal investigatory jurisdictions.

The CORs are responsible for assessing contractor behavior with regard to CTIP as part of their contract oversight responsibilities. The 2019 and 2020 annual CTIP self-assessment provided to the CTIP PMO by USCENTCOM clearly demonstrated examples where the CORs identified potential CTIP matters within the USCENTCOM AOR. DoD Instruction 2200.01, paragraph 2.9g, requires DoD components to report all suspected or confirmed TIP incidents to the administrative or operational chain of command. Reports may also be filed with the DoD Hotline. However, USCENTCOM may not be advised of a Service-related CTIP matter that occurred within the USCENTCOM AOR as that issue would be considered a Service-specific matter. Those measures are reported to the CTIP PMO by the “owning Service or DoD Component,” not necessarily USCENTCOM. Ultimately, the DoD CTIP PMO would be able to develop the complete CTIP reporting of incidences for DoD-wide use and action, including incidents that may have occurred in respective combatant command AORs.

Also, with USCENTCOM lacking investigative authorities or direct operational control of Service components, when a CTIP matter is referred to a DoD investigative organization, like the DoD OIG's Defense Criminal Investigative Service, USCENTCOM might not be aware that an incident or violation occurred. DoD Instruction 2200.01 states that for TIP-related information received through the DoD Hotline, the DoD OIG ensures the Hotline refers cases as either "information" or "for action" to the responsible DoD component for appropriate action.

In our 2019 report, we recommended that the DoD General Counsel coordinate with the DoD organizations responsible for overseeing contracting in Kuwait, such as USCENTCOM, ACC-RI, the Deputy Assistant Secretary of the Air Force for Contracting, and the Army and Air Force Exchange Service (AAFES), to determine the appropriate DoD organization responsible for determining definitive guidance on Kuwaiti labor laws that apply to DoD contracts with performance in Kuwait. The DoD General Counsel did not agree that there is or should be a single DoD organization responsible for issuing DoD-wide "definitive" guidance on Kuwaiti labor laws.

The DoD General Counsel further stated that the Department's acquisition system is inherently transaction-specific and contract compliance issues are raised, assessed, and resolved at the contract level, including issues relating to interpretation and application of relevant labor laws. Also, there is no single or centralized DoD organization that is responsible for issuing DoD-wide guidance on how to interpret either U.S. or foreign labor laws, nor any other U.S. or foreign laws with which Federal contractors may be required to comply (for example, tax or environmental laws). Rather, local acquisition counsel that provides advice to the contracting officer is responsible for providing guidance on all issues relating to contractor compliance with external legal requirements if needed, both foreign and domestic. In addition, Joint Publication 4-10 states that geographic combatant commands do not have contracting authority.

Therefore, the second part of Recommendation A.1.b is resolved and closed.

USAFCENT Did Not Fully Implement Recommendations to Develop and Implement a CTIP Program

In our 2019 report, we recommended that the USAFCENT Commander develop and implement a CTIP program, as required by CCR 570-4; however, USAFCENT only partially implemented our recommendations related to the development and implementation of its CTIP program.

The Air Force CTIP Program Efforts Need Further Improvement to Ensure Consistent Contract Administration in Kuwait

The Air Force improved its CTIP program by updating policy and communicating CTIP program efforts to its contracting community, specifically through training. However, the Air Force did not provide documentation or incorporate CTIP guidance in policies to support that it developed targeted CTIP guidance that addresses its CTIP program, nor did the Air Force demonstrate to us how its CTIP program was tailored to the Kuwaiti operational environment. For example, USAFCENT still did not ensure that all contracts contained the most current Alternate I CTIP FAR clause that provides specific Kuwaiti labor law information to assist with CTIP-related contract surveillance. Also, documentation provided did not contain information on the application of issues related to the CTIP FAR clause and Alternate I CTIP FAR clause, including CTIP-related contract surveillance monitoring such as QASPs and CTIP-related entries in CPARS, which are discussed in detail later in this report.¹⁶ Therefore, Recommendation A.2 remains open.

On October 21, 2019, the Office of Management and Budget's Deputy Director for Management issued a memorandum to the heads of executive departments and agencies discussing ways to enhance the effectiveness of anti-trafficking requirements in Federal acquisition. This memorandum was issued to help contractors manage and reduce the burden associated with meeting anti-trafficking responsibilities (see Appendix E for a detailed version of the Office of Management and Budget memorandum on anti-trafficking requirements).¹⁷

With regard to the Alternate I CTIP FAR clause, and as stated in the Office of Management and Budget memorandum, in March 2015 revisions to FAR Subpart 22.17 and the corresponding clause at 52.222-50 relating to TIP in Federal contracts became effective for all new contract awards and for all new orders under existing indefinite delivery, indefinite quantity contracts. The revisions strengthen the longstanding ban against human trafficking by clearly identifying prohibited trafficking-related activities for all products and services. Previously, there was only a general prohibition during the period of performance of a contract on

¹⁶ DFARS 22.17 addresses the inclusion of surveillance for ensuring compliance with CTIP in the QASP and recommends that the CTIP sample checklist from PGI 22.17 be used. According to the Defense Acquisition University, the QASP is the document Government personnel use to assess contractor performance. Using the requirements roadmap ensures that each performance objective is linked to a method of inspection incorporated in the QASP. The QASP identifies what is going to be inspected, the inspection process, and who will do the inspecting. The results of those inspections will then be used to document contractor performance. The QASP should be a "living" document and reviewed as performance warrants. It is also important to realize that the contractor, not the Government, is responsible for ensuring performance meets the terms of the contract. Also, the method and degree of performance assessment may change over time depending on the level of confidence in the contractor. See <https://www.dau.edu/tools/documents/sam/resources/qasp.html> for a sample CTIP checklist and QASP.

¹⁷ Office of Management and Budget memorandum M-20-01, "Anti-Trafficking Risk Management Best Practices & Mitigation Considerations," October 21, 2019.

engaging in human trafficking, procuring commercial sex acts, and using forced labor. Under the revisions to the FAR, the following trafficking-related activities are now also expressly prohibited:

- destroying, concealing, confiscating, or otherwise denying access by an employee to his or her identity or immigration documents;
- charging employees recruitment fees;
- using misleading or fraudulent recruitment practices;
- providing or arranging housing that fails to meet the host country housing and safety standards, if housing is provided;
- failing to provide return transportation costs upon the end of employment, except in special cases;
- using recruiters that do not comply with local labor laws in the country where the recruitment takes place; and
- failing to provide an employment contract, recruitment agreement, or other required work document in writing, if required by law or contract.

The prohibitions in the bullets above are not in Alternate I of the CTIP clause, but instead are in Paragraph (b), which addresses the laws of the country where the contract is to be performed. These prohibited trafficking-related activities should be detailed in the Alternate I CTIP FAR clause, especially as they relate to specific Kuwaiti labor law requirements, for contracts performed outside of the United States, as prescribed in FAR clause 22.1705:

(a) Insert the clause at 52.222-50, Combating Trafficking in Persons, in all solicitations and contracts.

(b) Use the basic clause with its Alternate I when the contract will be performed outside the United States (as defined at 22.1702) and the contracting officer has been notified of specific U.S. directives or notices regarding combating trafficking in persons (such as general orders or military listings of “off-limits” local establishments) that apply to contractor employees at the contract place of performance.

Air Force Efforts to Develop and Implement a CTIP Program

For Recommendation A.2, we recommended that the USAFCENT Commander develop and implement a CTIP program, as required by CCR 570-4. The USAFCENT Chief of Staff, responding for the USAFCENT Commander, agreed with the recommendation. The Chief of Staff stated that USAFCENT would develop and implement CTIP guidance as required by CCR 570-4 in coordination with USCENTCOM. The Air Force took the following actions to develop and implement its CTIP program:

- Updated Air Force Instruction 36-2921 with Air Force Instruction DODI2200.01_AFI36-2921, to align with DoD Instruction 2200.01, which was updated June 21, 2019. Key updates of Air Force Instruction DODI2200.01_AFI36-2921 include the following:¹⁸
 - CTIP general awareness training is a requirement for all U.S. Air Force personnel to complete. This course is implemented into the Air Force's "Total Force Awareness Training," and is titled "DoD Combating Trafficking in Persons (CTIP) General Awareness Course." All members in USAFCENT are required to have completed this course prior to deployment to the USAFCENT AOR.
 - Mandatory specialized training for acquisition personnel, located at <http://ctip.defense.gov/>, and CTIP acquisition training is taken in lieu of the CTIP general awareness training and is tracked by the Secretary of the Air Force for Acquisition.
 - The Air Force Judge Advocate is responsible for providing advice and assistance to the Air Force office that is primarily responsible for CTIP on all TIP legal matters, including reviewing and coordinating on all proposed TIP policies, regulations, directives, and instructions and on all proposed exceptions to DoD CTIP policy.
 - The Secretary of the Air Force for Acquisition is responsible for compliance with the CTIP FAR clause and all implementing regulations, instructions, and guidance Air Force-wide.
 - The Military Justice Division of the Air Force Legal Operations Agency annually provides disposition data contained in the Automated Military Justice Analysis and Management System that meet the criteria for TIP to the primary Air Force CTIP office and Secretary of the Air Force Office of the Inspector General, Directorate of Special Investigations, Air Force Office of Special Investigation, for completion of the annual report.

¹⁸ Air Force Instruction 36-2921, "Combating Trafficking in Persons (CTIP)," August 30, 2011. Air Force Instruction DODI2200.01_AFI36-2921, "Combating Trafficking in Persons (CTIP)," September 20, 2019.

- Added information concerning military or DoD Government personnel designated as a COR on DoD service contracts, and in accordance with DoD Instruction 5000.72, Enclosure 5 (Qualification Requirements for CORs), paragraph 1.a., minimum required training to be a COR, which includes CTIP training found at <http://ctip.defense.gov>. This training completion is tracked by the Squadron's Quality Assurance Program Coordinator (QAPC) and the contracting officer of each respective service contract prior to designating an individual as a COR.¹⁹ The Air Force provided a copy of training slides for QAPC training.
- The USAFCENT Contracting Policy and Guidance Handbook, Paragraph 7, under the Guidance and Information section, states that each USAFCENT Contracting Office must designate, in writing, an individual to track and report to the QAPC what contracts require formal QA oversight, CORs assigned to those contracts, and training documents for those CORs assigned.²⁰ However, the Handbook does not contain any information on the application of the CTIP FAR clause, Alternate I CTIP FAR clause, CTIP-related contract surveillance monitoring (to include QASPs), and CTIP-related entries in CPARS. Although the Air Force QAPC training slides contain some information on the application of the CTIP FAR clause, the Alternate I CTIP FAR clause, CTIP-related contract surveillance monitoring (to include QASPs), and CTIP-related entries in CPARS, this information is not mentioned in the Policy and Guidance Handbook.
- In our 2019 report, we requested and were later provided copies of the Air Force's monthly (February through April 2019) "Tag-Up" meetings. When we reviewed the agendas, we saw that the Air Force did emphasize ensuring that its Expeditionary Contracting Squadrons (ECONS) are including the FAR CTIP clause in all solicitations and contracts where it is required. However, we did not see that the meeting slides contained any information on the application of the Alternate I CTIP FAR clause, CTIP-related contract surveillance monitoring (to include QASPs), and CTIP-related entries in CPARS.

¹⁹ According to the Air Force, the QAPC assures that all installation-level contracts incorporate appropriate quality controls, measures, and surveillance; and that contracting employees, CORs, COR supervisors, and Functional Commanders/Functional Directors have the knowledge and training on the contracting requirements associated with the QA program.

²⁰ "United States Air Forces Central Command Contracting Policy and Guidance Handbook," February 7, 2020. This Handbook represents guidance from the USAFCENT/A7K Chief of Contracting, Shaw Air Force Base, who functions as the Senior Contracting Authority for Air Force Component Command contracting matters in the United States Central Command theater of operation. USAFCENT/A7K has responsibility for all contracting actions executed by deployed contingency contracting officers within the USAFCENT AOR.

- The Air Force provided a copy of the course description for the Defense Acquisition University’s “DoD 002 Combatting Human Trafficking for DoD Acquisition Professional” training course and the briefing slides from the USAFCENT QA training.²¹ According to Air Force officials, contracting personnel are required to take the DoD 002 course and each Contracting Squadron has a QA program that provides further training to each COR. Based on the DoD OIG followup review team’s examination, it was determined that the course description and the training slides demonstrate that the USAFCENT has training, which provides CTIP guidance to its contracting personnel.
- During this review, the DoD OIG followup review team also received a copy of the ECONS Staff Education Visit Checklist template, which reminds staff of the appropriate CTIP FAR clause and the appropriate training. The Air Force provided a completed Staff Education Visit report. The report stated that the purpose of this Staff Education Visit was strictly to review the health of the contracting team and the business operations, and to make recommendations where needed, and that the Staff Education Visit was not meant to be a graded inspection. The Staff Education Visit Checklist had a section that mentions QA with regard to Air Force Federal Acquisition Regulation Supplement, Part 5346.103, the QAPC appointment and training; however, we did not see that the Staff Education Visit Checklist instructed the inspector to review the organization’s application of the CTIP FAR clause, the Alternate I CTIP FAR clause, CTIP-related contract surveillance monitoring (to include QASPs), and CTIP-related entries in CPARS.
- Due to the USCENCOM Stop Movement order, USAFCENT was not able to conduct the visit in person to review management programs; however, a virtual Staff Education Visit was accomplished consisting of contract action reviews. Out of the 142 contract actions executed during the evaluation period (May 1 to June 12, 2020), a non-statistical sample of 21 contracts was reviewed by USAFCENT. Contract actions were pulled from both the Ali Al Salem Air Base contracting team and the Al Jaber Air Base contracting team. From the review, it was recommended that the unit ensure that the contract file includes a finalized and signed Contract Action Report. The specifics for each contract file reviewed are contained in a discrepancy log, which USAFCENT also provided to the DoD OIG follow-up review team.

²¹ According to the Defense Acquisition University website, this course has been replaced by the DoD 0020 course, “Combating Human Trafficking for DoD Acquisition Professionals,” January 6, 2021. This course informs Defense acquisition and contracting professionals about CTIP in DoD contracts. This includes an overview of laws and regulations, and the responsibilities to prevent, identify, and respond to abuses. This course will help learners understand how to uphold the zero tolerance policy and ensure taxpayer dollars do not contribute to TIP.

The Air Force improved its CTIP program efforts by updating Air Force Instruction 36-2921 with Air Force Instruction DODI2200.01_AFI36-2921 and communicating CTIP program efforts to its contracting community, especially through training. However, the Air Force did not strengthen existing policies, such as the USAFCENT Contracting Policy and Guidance Handbook, to support implementing and developing targeted CTIP guidance that addresses its CTIP program, nor did the Air Force show how its CTIP program is tailored to the Kuwaiti operational environment. For example, USAFCENT still did not ensure that all contracts contained the most current Alternate I CTIP clause that provides specific Kuwaiti labor law information to assist with CTIP-related contract surveillance. Also, documentation provided did not contain any information on the application of the CTIP FAR clause, Alternate I CTIP FAR clause, CTIP-related contract surveillance monitoring (to include QASPs), and CTIP-related entries in CPARS. Therefore, Recommendation A.2 remains resolved and open.

Recommendation A.2 from the 2019 report is resolved but remains open. We will close the recommendation when USAFCENT provides documentation to demonstrate that it has incorporated CTIP guidance in existing policies, such as the USAFCENT Contracting Policy and Guidance Handbook, tailored to contracts performed in the USCENTCOM AOR. This will support implementing and developing targeted CTIP guidance that addresses its CTIP program, such as ensuring contracts contain the most current Alternate I CTIP clause that provides specific Kuwaiti labor law information to assist with CTIP-related contract surveillance. We request management provide an update on actions taken to address this recommendation, as well as planned actions that will be taken to address this recommendation.

Recommendation, Management Comments, and Our Response

Recommendation A.2

We recommend that the Commander of U.S. Air Forces Central provide documentation to demonstrate that it has incorporated combating trafficking in persons guidance in existing policies, such as the U.S. Air Forces Central Contracting Policy and Guidance Handbook, tailored to contracts performed in the U.S. Central Command area of responsibility.²²

²² Because we are following up on the recommendations from the 2019 report, we are reporting on them as they were numbered in that report. Additionally, because we closed Recommendations A.1.a, b, and c, we are starting with Recommendation A.2.

U.S. Air Forces Central Comments

The USAFCENT Director of Manpower, Personnel, and Services, responding on behalf of the USAFCENT Commander, agreed with Recommendation A.2, and described the following actions that USAFCENT will take to implement the recommendation:

- the USAFCENT Chief of Contracting will update the USAFCENT Contracting Policy and Guidance Handbook to address CTIP guidance; however, there will be no specific language in the USAFCENT Contracting Policy and Guidance Handbook specifically for Kuwait as the guidance is for the entire USAFCENT theater;
- USAFCENT will direct the Expeditionary Contracting Squadrons to coordinate with legal personnel onsite to incorporate information specific to Kuwaiti labor law requirements into Alternate 1 CTIP clauses; and
- the USAFCENT Chief of Contracting will provide CTIP-related contract surveillance monitoring information to CORs as an update to the QASPs.

The estimated completion date of the updated USAFCENT Contracting Policy and Guidance Handbook is September 30, 2022.

Our Response

Comments from the USAFCENT Director of Manpower, Personnel, and Services, addressed the intent of the recommendation; therefore, the recommendation is resolved and open. We will close the recommendation once we obtain the updated USAFCENT Contracting Policy and Guidance Handbook and verify that the update includes comprehensive CTIP-related guidance. We will also review and verify that the contracts listed in Appendix G are modified, if necessary, to ensure they contain the CTIP clause information and Alternate I CTIP clause in accordance with the FAR and DFARS.

USAFCENT's description of managing host nation labor law issues is as described in the DoD Office of General Counsel's response at Appendix D, and meets the intent of this recommendation.

Finding B

DoD Contracting Personnel Did Not Ensure That DoD Contracts Awarded and Administered in Kuwait Complied With CTIP Requirements; However, AAFES Updated Its Policy on CTIP Monitoring

The condition in the 2019 report is still present and has not been addressed. DoD contracting personnel did not ensure that DoD contracts awarded and administered in Kuwait complied with CTIP requirements. Specifically, ACC-RI and USAFCENT contracting officers did not ensure that:

- the FAR CTIP clause and Alternate I FAR CTIP clause, or other required CTIP information, was included and updated in DoD contracts;
- every service contract had a QASP that described how CORs would monitor the contractor's compliance with the FAR CTIP clause; and
- contractor past performance data related to TIP was appropriately entered into the CPARS.²³

This occurred because ACC-RI and USAFCENT officials who supervise contracting officers did not provide adequate oversight to verify that contracting officers followed DoD and Service policies to accomplish required CTIP monitoring, compliance, and reporting. As a result, contracting personnel in Kuwait did not comply with the FAR and DoD policy and may have increased the risk that TIP violations would go undetected.

During our 2019 evaluation, AAFES updated its CTIP policy, providing adequate guidance to contracting personnel for CTIP monitoring and reporting.

The Air Force CTIP Program Efforts Need Further Improvement to Ensure Consistency With Contract Administration in Kuwait

To evaluate if USAFCENT ensured consistency with its administration of contracts and to determine if USAFCENT met the intent of Recommendations B.1.a through B.1.e, we interviewed USAFCENT officials and reviewed documentation provided

²³ The FAR requires that contractor performance information be collected (FAR Part 42.15) and used in source selection evaluations (FAR Part 15). Source selection officials rely on clear and timely evaluations of contractor performance to make informed business decisions when awarding Government contracts and orders. This information is critical to ensuring that the U.S. Government only does business with companies that provide quality products and services in support of the agency's missions. FAR subpart 42.15, "Contractor Performance Information," requires U.S. Government officials to prepare and submit contractor performance information, both positive and negative, into CPARS. FAR Part 15, "Contracting by Negotiation," prescribes policies and procedures governing negotiated acquisitions by the U.S. Government.

by USAFCENT. We reviewed 16 contracts that were identified by USAFCENT. We relied on information retrieved from the Electronic Data Access module of the Procurement Integrated Enterprise Environment for each contract (see Appendix F for a list of the 16 contracts we reviewed). Additionally, we used the same contract list to review information in CPARS and to determine whether contracting officers entered CTIP-related data, such as the CTIP FAR clause information, QASP monitoring instructions, and CPARS evaluations, as required by policy.

Recommendation B.1.a was closed by the DoD OIG in 2020 based on information provided by USAFCENT. We recommended that the USAFCENT Chief of Contracting ensure that contracting officers include FAR clause 52.222-50 in all contracts, and update the clause, as needed, to reflect the current version of the clause.

The USAFCENT Chief of Staff, responding on behalf of the USAFCENT Chief of Contracting, agreed, stating that USAFCENT would inform all of its ECONS leaders of the requirement to include the FAR CTIP clause in all contracts and then reinforce this requirement during the monthly USAFCENT teleconference for at least 3 months.

As part of the USAFCENT response, meeting minutes were provided from the USAFCENT/A7K (Senior Contracting Authority for Expeditionary Contracting) monthly teleconference for 3 months (February through April 2019), which informed the ECONS of the requirement to include the FAR CTIP clause in all solicitations and contracts. Furthermore, the Air Force provided a copy of the USAFCENT September 2019 memorandum to the Air Force IG addressing this recommendation. Based on the DoD OIG followup review team's examination of the memorandum, USAFCENT reiterated the actions it took to reinforce the requirement to ensure that FAR clause 52.222-50 is included in all contracts, and updated as needed, to reflect the current version of the clause within its monthly USAFCENT/A7K teleconferences, which started in February 2019. The meeting minutes from the monthly teleconference shows that USAFCENT reinforced the requirement to its ECONS to include the FAR CTIP clause in all contracts.

However, during the DoD OIG followup review team's review of the 16 contracts, we found that 11 of 16 contracts reviewed contained the current version of FAR clause 52.222-50, and the remaining 5 contracts did not contain a CTIP clause. None of the 16 contracts contained the Alternate I CTIP FAR clause, which is needed for contracting officers and their staffs to get the level of specificity necessary to surveil contracts for CTIP prohibited activities and violations, especially as they relate to Kuwaiti labor laws. Also, only 1 of 16 contracts reviewed directed monitoring by the contracting officer and their staff for contractor compliance of CTIP. Therefore, this recommendation should not have been closed and remains open.

Recommendation B.1.b was closed by the DoD OIG in 2020, based on information provided by USAFCENT. We recommended that the USAFCENT Chief of Contracting ensure that contracting officers ensure that QASPs are prepared for all contracts that require them and include appropriate methods for monitoring the contractor's performance regarding TIP.

The USAFCENT Chief of Staff agreed, stating that USAFCENT would brief all ECONS leaders to ensure that proper contract documentation and reviews are conducted prior to contract award. The USAFCENT was to conduct initial training in February 2019 of the revamped QA program, including CTIP in tracking tools.²⁴

The DoD OIG followup review team examined the meeting minutes referenced in USAFCENT Recommendation B.1.a above and did not identify any information about USAFCENT's revamped QA program, the preparation of the QASP, and the inclusion of CTIP-related monitoring or reporting in all contracts. However, the USAFCENT QAPC training slides contained information about QASP development and the QAPC's responsibility for ensuring the QASP includes CTIP-related information. The training also states that the QAPC will support the development of COR training on the QASP and surveillance plan requirements. Furthermore, the USAFCENT provided the COR tracking tool and the checklist used by the USAFCENT to conduct Staff Education Visits to review contract files. Based on the DoD OIG followup review team's examination, the tracking tools show that CTIP training requirements were incorporated into the COR tracking tool and the checklist used to ensure the CTIP clause was included in all contracts. Based on the QAPC training slides, the QAPC has an important role in USAFCENT efforts to revamp its QA program. The QAPC is supposed to ensure that QASPs are prepared for all contracts and contain information about CTIP-related monitoring and reporting.

During the course of this followup evaluation, we requested QASPs from USAFCENT that were aligned with the list of 16 contracts at Appendix G. We were provided five QASPs; however, only two of the five QASPs matched 2 of the contracts on the list of 16 contracts, and only 1 of the 2 contracts from the list of 16 contracts with QASPs contained the mandatory CTIP clause. Also, only one of the two QASPs the DoD OIG followup review team examined contained monitoring directions or methods regarding CTIP. Therefore, we determined that this recommendation should not have been closed and remains open.

²⁴ The USAFCENT COR Performance Assessment Report Tracker is a document that allows users to insert COR training requirements and completion dates in relevant fields. This form was included in USAFCENT/A7K QAPC briefing.

Recommendation B.1.c was open based on information provided by USAFCENT. We recommended that the USAFCENT Chief of Contracting ensure that contracting officers document in the contract file how monitoring for compliance with the CTIP clause will be accomplished, and by whom, if a contract does not require a QASP.

The USAFCENT Chief of Staff agreed, stating that USAFCENT would reinforce CTIP monitoring responsibilities during annual ECONS commanders' orientation and quarterly training.

USAFCENT provided the DoD OIG followup review team a copy of the ECONS orientation briefing, which contained a general information slide on CTIP but did not reinforce CTIP monitoring responsibilities with regard to operating in the Kuwait operational environment and monitoring for Kuwait labor law violations. The Staff Education Visit Checklist was also provided to support the closure of this recommendation. However, based on the DoD OIG followup review team's review of the Checklist, we determined that although the Staff Education Visit Checklist contains information showing that USAFCENT reviews contract files for inclusion of the CTIP clause and to determine if the COR met CTIP training requirements, it does not address whether the contract files included a QASP and the monitoring of contractor compliance with CTIP requirements.

The only training we reviewed that included detailed CTIP monitoring was the QAPC training slides. Again, although the USAFCENT incorporated CTIP-related information in the USAFCENT QAPC training slides and provided the training slides to all ECONS and alternate QAPCs to provide the training to their respective ECONS, the intent of this recommendation was still not met. The intent of this recommendation was not met because the training still does not discuss documenting how monitoring for compliance with the CTIP clause will be accomplished, and by whom, if a contract does not require a QASP.

Also, only 1 of the 16 contracts listed at Appendix G that was reviewed by the DoD OIG followup review team directed contracting officer monitoring for contractor compliance of CTIP. In addition, the DoD OIG followup review team highlighted in Recommendation B.1.b that only one of the two QASPs reviewed contained monitoring directions or methods regarding CTIP and matched the 16 contracts listed at Appendix G. Therefore, this recommendation remains open.

Recommendation B.1.d was open based on information provided by USAFCENT. We recommended that the USAFCENT Chief of Contracting ensure that contracting officers verify that CORs accomplish and document proper monitoring of contractor compliance with DoD CTIP regulations.

The USAFCENT Chief of Staff agreed, stating that USAFCENT would review contract files for compliance with the FAR CTIP clause during annual Staff Education Visits as well as during quarterly training.

We reviewed the Staff Education Visit Checklist and confirmed that the Staff Education Visit Checklist does not verify whether QASPs contain information about CTIP-related monitoring. The Staff Education Visit Checklist neither illustrates how contracting officers are verifying that CORs accomplish and document proper monitoring of contractor compliance with DoD CTIP regulations nor shows evidence of guidance directing the review of contract files for compliance with CTIP regulations. Also, the QAPC training slides do not explicitly direct contracting officers to verify that CORs accomplish and document proper monitoring of contractor compliance with DoD CTIP regulations.

Also, because only 1 of 16 contracts reviewed directed monitoring for contractor compliance of CTIP, and one of the two QASPs contained monitoring directions or methods regarding CTIP, we determined that contracting officers were not verifying that CORs accomplished and documented proper monitoring of contractor compliance with DoD CTIP regulations. Therefore, this recommendation remains open.

Recommendation B.1.e was closed by the DoD OIG in 2020, based on information provided by USAFCENT. We recommended that the USAFCENT Chief of Contracting ensure that contracting officers enter contractor past performance information, including CTIP violations, promptly into the CPARS.

The USAFCENT Chief of Staff agreed, stating that USAFCENT would direct all ECONS to ensure that each contract in CPARS has a CTIP review, evaluation, and documentation notes section.

The DoD OIG followup review team examined USAFCENT's QAPC briefing slides and determined that one sentence on one slide included language for contracting personnel to ensure that each contractor performance assessment report entailed a CTIP review, evaluation, and documentation in the notes section. However, because the slide is not policy, we do not view this briefing slide as a formal direction for ECONS to ensure that each contract in CPARS has a CTIP review, evaluation, and documentation in the notes section. Because source selection officials rely on clear and timely evaluations of contractor performance to make informed business decisions when awarding Government contracts and orders, information entered into CPARS, both positive and negative, is critical to ensuring that the U.S. Government only does business with companies that provide quality products and services in support of the agency's missions. After the DoD OIG followup review team examined the past performance data in the CPARS database for each

of the 16 contracts, we found no evidence that a CTIP review had been conducted or that the results of that review had been documented in CPARS. Therefore, the DoD OIG followup review team determined that this recommendation should not have been closed and remains open.

Recommendations B.1.a through B.1.e from the 2019 report are resolved and open. We will close these recommendations when USAFCENT provides documentation to demonstrate that it ensures that contracting officers:

- a. Include direction in contracts for monitoring contractor compliance of CTIP, to include the Alternate I CTIP FAR clause, in order to surveil contracts for CTIP prohibited activities and violations, especially as they relate to Kuwaiti labor laws.
- b. Ensure that quality assurance surveillance plans are prepared for all contracts that require them and include appropriate methods for monitoring the contractor's performance regarding trafficking in persons.
- c. Document in the contract file how monitoring for compliance with the CTIP clause will be accomplished, and by whom, if a contract does not require a quality assurance surveillance plan.
- d. Verify that contracting officer's representatives accomplish and document proper monitoring of contractor compliance with DoD combating trafficking in persons regulations.
- e. Enter contractor past performance information, including a documented combating trafficking in persons review, both positive and negative, promptly into the Contractor Performance Assessment Reporting System.

We request management provide an update on actions taken to address these recommendations, as well as planned actions that will be taken to address these recommendations.

The Army CTIP Program Efforts Need Further Improvement to Ensure Consistent Contract Administration in Kuwait

To evaluate if ACC-RI ensured consistency with its administration of contracts and to determine if ACC-RI met the intent of Recommendations B.1.a through B.1.e, we interviewed ACC-RI officials and reviewed documentation provided by ACC-RI. The DoD OIG followup evaluation team reviewed 30 contracts that were identified by ACC-RI. We relied on information retrieved from ACC-RI's Paperless Contract Files system (see Appendix E for the list of the 30 ACC-RI contracts we reviewed).²⁵

²⁵ The "Paperless Contract Files Contracting User's Guide," December 2018, version 4.0. The Paperless Contract Files is a secure web-based application. Paperless Contract Files is designed and certified to store official contract files, as required by FAR Subpart 4.8, "Government Contract Files," in an electronic centralized depository.

We also reviewed the same 30 contracts retrieved from the Electronic Data Access module of the Procurement Integrated Enterprise Environment to access the ACC-RI-identified contracts. Additionally, we used the same contract list to review information in CPARS and to determine whether contracting officers entered CTIP-related data, such as the CTIP FAR clause information, QASP monitoring instructions, and CPARS evaluations, as required by policy.

Recommendation B.1.a was open, based on information provided by ACC-RI. We recommended that the ACC-RI Executive Director ensure that contracting officers include FAR clause 52.222-50 in all contracts and update the clause, as needed, to reflect the current version of the clause.

The Army Contracting Command Deputy to the Commanding General, responding on behalf of the ACC-RI Executive Director, agreed with the recommendation and stated that ACC-RI would review its contracts with performance in Kuwait to ensure the FAR CTIP clause was included. If it was not, the contract would be modified to incorporate the current version of the clause. ACC-RI also responded to this recommendation by stating it would review its contracts with performance in Kuwait to ensure FAR clause 52.222-50 was included and, if not, the contract would be modified to incorporate the current version of the clause.

Our review of 30 contracts determined that all 30 contracts contained FAR clause 52.222-50. Therefore, this recommendation is closed.

Recommendation B.1.b was open based on information provided by ACC-RI. We recommended that the ACC-RI Executive Director ensure that contracting officers ensure that QASPs are prepared for all contracts that require them and include appropriate methods for monitoring the contractor's performance regarding TIP.

The Army Contracting Command Deputy to the Commanding General agreed with the recommendation and stated that ACC-RI would review the QASPs for existing contracts that include a QASP, with performance in Kuwait, to verify that appropriate methods for monitoring contractor's performance regarding TIP were included. If the monitoring methods were not included in the QASP, the requiring activity (owner of the QASP) would be asked to include the monitoring methods in the QASP.²⁶

²⁶ According to the Defense Acquisition University glossary, the requiring activity is the organization charged with meeting a mission and delivering requirements. The requiring activity is responsible for obtaining funding or developing the program objective memorandum. A program objective memorandum is a recommendation from the Services and Defense Agencies to the Office of the Secretary of Defense concerning how they plan to allocate resources for a program.

ACC-RI added that QASPs for all active contracts that include a QASP with performance in Kuwait would be reviewed. The assigned contracting officers would verify that all QASPs include the appropriate methods for monitoring contractor's performance regarding CTIP. If CTIP monitoring methods were not contained in the existing QASP, the assigned contracting officer would recommend to the requiring activity to include CTIP requirements and use the Defense Contract Management Activity Checklist for on-site CTIP monitoring of contractor performance. After the necessary coordination, the contracting officer would incorporate any change via a contract modification. For ACC-RI contracts that did not contain a QASP, the contracting officers would include CTIP performance monitoring narrative into the contract.

After reviewing information and documentation provided by ACC-RI and subordinate commands, we found that of the 30 contracts we reviewed, 4 contracts had QASPs and 2 of the 4 QASPs had direction to monitor for TIP. Therefore, this recommendation remains open.

Recommendation B.1.c was open based on information provided by ACC-RI. We recommended that the ACC-RI Executive Director ensure that contracting officers document in the contract file how monitoring for compliance with the CTIP clause will be accomplished, and by whom, if a contract does not require a QASP.²⁷

The Army Contracting Command Deputy to the Commanding General agreed with the recommendation and stated that ACC-RI would identify and document in the contract file how monitoring for FAR CTIP clause compliance is accomplished for those contracts that do not require a QASP.

The 408th CSB provided information on the composition of their QA CTIP section and how the team meets the organization's requirements for CTIP oversight. The 408th CSB has taken a team approach to improving the CTIP Program and for assisting the CTIP QA Noncommissioned Officer in Charge and CTIP Noncommissioned Officer. The Administrative Contracting Officers and QA Specialists are present at CTIP surveillances and are considered valued stakeholders for the success of the CTIP program. Surveillance team actions are documented and briefed to the 408th CSB commander in accordance with its CTIP standard operating procedures. (See Finding D for more detailed information on the CTIP Inspection Team).

Based on this information, this recommendation is now closed.

²⁷ Some contracts, depending on the dollar threshold, do not require a QASP. However, the DoD OIG followup review team wanted to analyze the QASPs that did exist to determine if the QASPs contained the mandatory CTIP clauses as originally agreed to in the 2019 report.

Recommendation B.1.d was open based on information provided by ACC-RI. We recommended that the ACC-RI Executive Director ensure that contracting officers verify that CORs accomplish and document proper monitoring of contractor compliance with DoD CTIP regulations.

The Army Contracting Command Deputy to the Commanding General agreed with the recommendation and stated that ACC-RI would issue a memorandum to all ACC-RI contracting officers and delegated Administrative Contracting Officers (ACOs) requiring that, when CORs are appointed, their appointment letters include a requirement to monitor and document the contractors' performance regarding TIP.

The DoD OIG followup review team found that ACC-RI and the 408th CSB had monitoring measures in place to better ensure that CORs accomplished and documented proper monitoring of contractor compliance with DoD CTIP regulations, including:

- an October 31, 2019, version of the Regional Contracting Center—Kuwait CTIP Standard Operating Procedures, which established responsibilities, operating procedures, and guidance regarding CTIP surveillance;
- the combined CTIP Inspection Team and QA section; and
- Noncommissioned Officer appointment letters, which stated that the "Individual holding this position will focus on CTIP requirements..."

Based on the DoD OIG followup review team's examination of this information, this recommendation is closed.

Recommendation B.1.e was open based on information provided by ACC-RI. We recommended that the ACC-RI Executive Director ensure that contracting officers enter contractor past performance information, including CTIP violations, promptly into CPARS.

The Army Contracting Command Deputy to the Commanding General agreed with the recommendation and stated that ACC-RI would issue a memorandum to its contracting officers requiring that they include CTIP violations in CPARS, when appropriate, and that all administrative contracting officer delegation letters would include guidance requiring that CTIP violations be entered into CPARS.

Because source selection officials rely on clear and timely evaluations of contractor performance to make informed business decisions when awarding Government contracts and orders, information entered into CPARS, both positive and negative, is critical to ensuring that the U.S. Government only does business with companies that provide quality products and services in support of the agency's missions. After the DoD OIG followup review team evaluated information related to the

30 contracts in the CPARS database, we determined there was no CTIP-related information, either positive or negative, as required by FAR Subpart 42-15, nor did we find that each of the contracts had a CTIP review, evaluation, or documentation notes section in the CPARS database. Therefore, this recommendation remains open.

Recommendations B.1.b and B.1.e from the 2019 report are resolved but remain open. We will close these recommendations when Army Contracting Command-Rock Island provides documentation to demonstrate that it ensures that contracting officers:

- Ensure that quality assurance surveillance plans are prepared for all contracts that require them and include appropriate methods for monitoring the contractor's performance regarding trafficking in persons.
- Enter contractor past performance information, including a documented combating trafficking in persons review, both positive and negative, promptly into the Contractor Performance Assessment Reporting System.

We request management provide an update on actions taken to address these recommendations, as well as planned actions that will be taken to address these recommendations.

Recommendation B.2 was open, based on information provided by ACC-RI. We recommended that the ACC-RI Executive Director require contracting officers to update surveillance and reporting documents for CORs to record that monitoring of the contractor's performance regarding TIP is accomplished.

The Army Contracting Command Deputy to the Commanding General agreed with the recommendation and stated that ACC-RI would issue a memorandum to all ACC-RI contracting officers and delegated ACOs requiring that, when a COR is appointed, their appointment letters include a requirement to monitor and document the contractor's performance regarding TIP.

As with Recommendation B.1.c, the ACC-RI and 408th CSB had monitoring measures in place to better ensure that CORs accomplished and documented proper monitoring of contractor compliance with DoD CTIP regulations, including:

- an October 31, 2019, version of the Regional Contracting Center—Kuwait CTIP Standard Operating Procedures, which established responsibilities, operating procedures, and guidance regarding CTIP surveillance;
- the combined CTIP Inspection Team and QA section; and
- Noncommissioned Officer appointment letters, which stated that the "Individual holding this position will focus on CTIP requirements..."

Based on the DoD OIG followup review team's evaluation of this information, this recommendation is closed.

AAFES Updated Its Policy on CTIP Monitoring

AAFES updated its policy on CTIP monitoring. The updated AAFES policy provides enhanced guidance to AAFES contracting personnel for CTIP monitoring and reporting.

Recommendation B.3 was closed in the 2019 report. We recommended that the AAFES Chief Executive Officer update Exchange Policy 08-08, “Combating Trafficking in Persons,” to provide guidance on monitoring contractor compliance with the CTIP provision, including responsibilities of personnel, clearly defined and required monitoring methods and frequency, records maintenance, and reporting requirements.

The AAFES Chief Executive Officer agreed with the recommendation and stated that in June 2018, during our 2019 report evaluation, AAFES updated its Exchange Operating Policy.²⁸ The revised policy describes how personnel should monitor CTIP compliance; for example, CORs must create a checklist of the contractual obligations of each contractor for each inspection and conduct quarterly sensing sessions and contract reviews.

We noted in our 2019 report that the revisions to the Exchange guidance “included a clearer delineation of roles and responsibilities for monitoring CTIP.” In addition, revisions to DoD Instruction 2200-01, “Combating Trafficking in Persons (CTIP),” June 21, 2019, prompted a review and revisions to the Exchange guidance to ensure alignment. Exchange Operating Procedure 08-08 was updated in November 2019 and implements DoD Instruction 2200.01. We verified that the updated Exchange Operating Policy describes how personnel should monitor CTIP compliance. The DoD OIG reviewed the policy and closed the recommendation in the 2019 report. Therefore, Recommendation B.3 remains closed.

²⁸ Army and Air Force Exchange Service Exchange Operating Policy 08-08, “Exchange Policy on Combating Trafficking In Persons,” June 2018.

Recommendation, Management Comments, and Our Response

Recommendation B.1.a

We recommend that the Commander of U.S. Air Forces Central include direction in contracts for monitoring contractor compliance of combating trafficking in persons, to include the Alternate I combating trafficking in persons Federal Acquisition Regulation clause, in order to surveil contracts for combating trafficking in persons prohibited activities and violations, especially as they relate to Kuwaiti labor laws.

U.S. Air Forces Central Comments

The USAFCENT Director of Manpower, Personnel, and Services, responding on behalf of the USAFCENT Commander, agreed with Recommendation B.1.a, and described the following actions that USAFCENT will take to implement the recommendation:

- the USAFCENT Chief of Contracting will update the USAFCENT Policy and Guidance Handbook, to include more comprehensive CTIP information to inform Contingency Contracting Officers of the CTIP requirements for contracts;
- the USAFCENT Chief of Contracting will brief Contingency Contracting Officers' CTIP responsibilities at the Expeditionary Contracting Squadrons/Contingency Contracting Annual Orientation Course;
- the 386th Expeditionary Contracting Squadron will review the contracts listed in Appendix G and modify them, if necessary, to ensure they contain the CTIP clause information and the Alternate I CTIP Clause, in accordance with the FAR and DFARS; and
- the Expeditionary Contracting Squadrons will coordinate with legal personnel onsite to incorporate information specific to Kuwaiti labor law requirements. Contingency Contracting Officers will complete contract modifications to incorporate these clauses as applicable.

The estimated completion date for the contract modifications and the USAFCENT Contracting Policy and Guidance Handbook update is September 30, 2022.

Our Response

Comments from the USAFCENT Director of Manpower, Personnel, and Services addressed the intent of the recommendation; therefore, the recommendation is resolved and open. We will close the recommendation once we verify that the USAFCENT Contracting Policy and Guidance Handbook have been updated to include comprehensive CTIP-related guidance. We will also review and verify that

the contracts listed in Appendix G have been modified, if necessary, to ensure they contain the CTIP clause information and Alternate I CTIP clause in accordance with the FAR and DFARS.

USAFCENT's description of managing host nation labor law issues is described in the DoD Office of General Counsel's response at Appendix D and meets the intent of this recommendation.

Recommendation B.1.b

We recommend that the Commander of U.S. Air Forces Central ensure that quality assurance surveillance plans are prepared for all contracts that require them and include appropriate methods for monitoring the contractor's performance regarding trafficking in persons.

U.S. Air Forces Central Comments

The USAFCENT Director of Manpower, Personnel, and Services, responding on behalf of the USAFCENT Commander, agreed with Recommendation B.1.b, and described the following actions that USAFCENT will take to implement the recommendation:

- the Expeditionary Contracting Squadrons will review the contracts listed in Appendix G and if a quality assurance surveillance plan is required (also see Recommendation A.2), modify them, if necessary, to ensure they contain the CTIP clause information and the Alternate I CTIP clause in accordance with the FAR and DFARS; and
- the Expeditionary Contracting Squadrons will also coordinate with legal personnel onsite to incorporate information specific to Kuwaiti labor law requirements.

The estimated completion date for the contract modifications is September 30, 2022.

Our Response

Comments from the USAFCENT Director of Manpower, Personnel, and Services addressed the intent of the recommendation; therefore, the recommendation is resolved and open. We will close the recommendation once we obtain the contracts listed in Appendix G and verify that, if a quality assurance surveillance plan is required, the USAFCENT Chief of Contracting modified the contracts to ensure they contain the CTIP clause information and the Alternate I CTIP clause in accordance with the FAR and DFARS, to assist with CTIP-related contract surveillance of the contractor's performance regarding TIP.

USAFCENT's description of managing host nation labor law issues is described in the DoD Office of General Counsel's response at Appendix D and meets the intent of this recommendation.

Recommendation B.1.c

We recommend that the Commander of U.S. Air Forces Central document in the contract file how monitoring for compliance with the combating trafficking in persons clause will be accomplished, and by whom, if a contract does not require a quality assurance surveillance plan.

U.S. Air Forces Central Comments

The USAFCENT Director of Manpower, Personnel, and Services, responding on behalf of the USAFCENT Commander, agreed with the intent of Recommendation B.1.c, but disagreed that the recommended corrective action had not been completed. The USAFCENT Chief of Contracting stated that the Expeditionary Contracting Squadrons orientation briefing did not maintain CTIP monitoring responsibilities specific to operating in Kuwait, as the briefing audience included four other Expeditionary Contracting Commanders located at other countries in the USAFCENT AOR and covered general CTIP responsibilities as the recommendation implied.

The USAFCENT Chief of Contracting stated that the original recommendation did not indicate any considerations for the monitoring of Kuwait labor law violations and, therefore, should not be addressed in this specific recommendation. However, the intent of this recommendation was to ensure that USAFCENT Contingency Contracting Officers document contract files to communicate how monitoring for compliance with the CTIP clause will be accomplished, and by whom, if a contract does not require a quality assurance surveillance plan. In agreement with the intent of this recommendation, the USAFCENT Chief of Contracting will modify the Staff Education Visit Checklist to include a review of the quality assurance surveillance plan to ensure that appropriate monitoring of contractor compliance with CTIP requirements is established.

The USAFCENT Chief of Contracting also stated that the FAR CTIP clause 52.222-50, titled, "Combating Trafficking in Persons," dictates that a compliance plan is required for supplies, other than Commercially Available off-the-shelf items; or services performed outside of the United States when the contract is estimated or valued over \$550,000. The clause further indicates at FAR 52.222-50 (h)(3) the minimum requirements for the compliance plan. The USAFCENT Chief of Contracting is updating the USAFCENT Contracting Policy and Guidance Handbook to include monitoring requirements for Contracting Officers to communicate to CORs even if a contract does not require a quality assurance surveillance plan.

The Expeditionary Contracting Squadrons will review the contracts listed in Appendix G and modify them, if necessary, to ensure they contain the CTIP clause information and Alternate I CTIP Clause in accordance with the FAR and DFARS. The Expeditionary Contracting Squadrons will coordinate with legal personnel onsite to incorporate information specific to Kuwaiti labor law requirements.

The estimated completion date for contract, Staff Education Visit Checklist, and Contracting Policy and Guidance Handbook modifications is September 30, 2022.

Our Response

Comments from the USAFCENT Director of Manpower, Personnel, and Services addressed the intent of the recommendation; therefore, the recommendation is resolved and open. Although the USAFCENT Director of Manpower, Personnel, and Services believes the recommended corrective action was completed, we disagree because the sample of quality assurance surveillance plans provided by USAFCENT to the DoD OIG did not contain CTIP monitoring directions. However, updating the USAFCENT Contracting and Guidance Handbook, as described in Recommendation A.1, will assist with closing this recommendation if the update describes how monitoring for compliance with the CTIP clause will be accomplished, and by whom, if a contract does not require a quality assurance surveillance plan.

We will close the recommendation once we obtain the updated USAFCENT Contracting Policy and Guidance Handbook, and the Staff Education Visit Checklist; and verify that the update included CTIP guidance.

USAFCENT's description of managing host nation labor law issues is as described in the DoD Office of General Counsel's response at Appendix D and meets the intent of this recommendation.

Recommendation B.1.d

We recommend that the Commander of U.S. Air Forces Central verify that contracting officer's representatives accomplish and document proper monitoring of contractor compliance with Department of Defense combating trafficking in persons regulations.

U.S. Air Forces Central Comments

The USAFCENT Director of Manpower, Personnel, and Services, responding on behalf of the USAFCENT Commander, agreed with Recommendation B.1.d, and described the following actions that USAFCENT will take to implement the recommendation:

- the USAFCENT Chief of Contracting will update the USAFCENT Policy and Guidance Handbook to include more comprehensive CTIP-related information to inform Contingency Contracting Officers of contract requirements regarding CTIP;
- the Expeditionary Contracting Squadrons will review the contracts listed in Appendix G and modify them, if necessary, to ensure they contain the CTIP clause information and Alternate I CTIP Clause in accordance with the FAR and DFARS;
- the Expeditionary Contracting Squadrons will coordinate with legal personnel onsite to incorporate information specific to Kuwaiti labor law requirements. Contracting Officers are responsible for ensuring that applicable contractors certify annually that they maintain a compliance plan in accordance with FAR CTIP clause 52.222-50; and
- the USAFCENT Chief of Contracting will update the Staff Education Visit Checklist to help staff verify whether CORs monitored contractor compliance with CTIP.

The estimated completion date for the contract, handbook, and checklist modifications is September 30, 2022.

Our Response

Comments from the USAFCENT Director of Manpower, Personnel, and Services addressed the intent of the recommendation; therefore, the recommendation is resolved and open. We will close the recommendation once we obtain and verify that the USAFCENT Contracting Policy and Guidance Handbook has been updated to include more comprehensive CTIP-related information to inform Contingency Contracting Officers of contract requirements regarding CTIP.

We will review and verify that the contracts listed in Appendix G have been modified, if necessary, to ensure they contain both the CTIP clause information and Alternate I CTIP Clause in accordance with the FAR and DFARS. We will also obtain and verify that the Staff Education Visit Checklist has been updated with items to help staff determine whether CORs monitored contractor compliance with CTIP.

USAFCENT's description of managing host nation labor law issues is as described in the DoD Office of General Counsel's response at Appendix D and meets the intent of this recommendation.

Recommendation B.1.e

We recommend that the Commander of U.S. Air Forces Central enter contractor past performance information, including a documented combating trafficking in persons review, both positive and negative, promptly into the Contractor Performance Assessment Reporting System.

U.S. Air Forces Central Comments

The USAFCENT Director of Manpower, Personnel, and Services, responding on behalf of the USAFCENT Commander, agreed with Recommendation B.1.e, and described the following actions that USAFCENT will take to implement the recommendations:

- the USAFCENT Chief of Contracting will update the Policy and Guidance Handbook to include CTIP-related information specifically for Contractor Performance Assessment Reporting System requirements for applicable contracts; and
- the Expeditionary Contracting Squadrons will review the contracts listed in Appendix G and, if necessary, modify them to ensure they contain required CTIP-related information and are incorporated into Contractor Performance Assessment Reporting System in accordance with the FAR and DFARS for applicable contracts.

The estimated completion date for the CTIP-related Contractor Performance Assessment Reporting System requirements to the Handbook and associated contract modifications is September 30, 2022.

Our Response

Comments from the USAFCENT Director of Manpower, Personnel, and Services addressed the intent of the recommendation; therefore, the recommendation is resolved and open. We will close the recommendation once we obtain the updated USAFCENT Contracting Policy and Guidance Handbook and verify that the update included the CTIP-related Contractor Performance Assessment Reporting System

requirements. We will also review the Contractor Performance Assessment Reporting System database and verify that it includes CTIP-related information in accordance with the FAR and DFARS for applicable contracts.

Recommendation B.1.b

We recommend that the Commander of the Army Contracting Command-Rock Island provide verification that quality assurance surveillance plans are prepared for all contracts that require them and that appropriate methods for monitoring the contractor's performance regarding trafficking in persons are included.

U.S. Army Contracting Command-Rock Island Comments

The ACC-RI Executive Director, responding on behalf of the ACC-RI Commander, agreed with Recommendation B.1.b, and described the following actions to implement the recommendation:

- the ACC-RI Executive Director ensured actions were taken to ensure quality assurance surveillance plans were updated, to include the COR CTIP checklists;
- for the 30 contracts identified in Appendix F, ACC-RI provided a spreadsheet detailing the completion date for which the quality assurance surveillance plans were updated;
- the ACC-RI Executive Director updated the quality assurance surveillance plans within the Procurement Integrated Enterprise Environment, which is the system of record per the Army Federal Acquisition Regulation Supplement; and
- ACC-RI will assist the DoD OIG with verifying that quality assurance surveillance plans were updated to include COR CTIP Checklists.

Our Response

Comments from the ACC-RI Executive Director addressed the intent of the recommendation; therefore, the recommendation is resolved and open. We will close the recommendation once we retrieve and verify that quality assurance surveillance plans and COR CTIP checklists were updated in ACC-RI's Paperless Contract Files system and the Electronic Data Access module of the Procurement Integrated Enterprise Environment.

Recommendation B.1.e

We recommend that the Commander of the Army Contracting Command-Rock Island provide documentation to demonstrate that contractor past performance information, including a documented combating trafficking in persons review, both positive and negative, is entered promptly into the Contractor Performance Assessment Reporting System.

U.S. Army Contracting Command-Rock Island Comments

The ACC-RI Executive Director, responding on behalf of the ACC-RI Commander, agreed with Recommendation B.1.e, and described the following actions that ACC-RI will take to implement the recommendations:

- an ACC-RI memorandum of record was issued to the contracting staff on August 13, 2019, instructing that all Contracting Officers must also ensure documentation of CTIP violations be included in all Contractor Performance Assessment Reporting System evaluations;
- in addition, ACC-RI provided instruction to each respective Contract Specialist of the contracts listed on the Contractor Performance Assessment Reporting System listing to validate that CTIP response information was included in the narrative;
- where appropriate language is absent from the Contractor Performance Assessment Reporting System, ACC-RI will take action on the next evaluation period in the system, where applicable. The validation of information will be completed in the 2nd quarter of FY 2022, not later than March 31, 2022; and
- the Director of Contracting will validate CTIP-related information in CPARS, with validated records provided to the DoD OIG upon completion to close out the action.

The estimated completion date is March 31, 2022.

Our Response

Comments from the ACC-RI Executive Director addressed the intent of the recommendation; therefore, the recommendation is resolved and open. We will close the recommendation once we obtain and verify that CTIP-related information is included in all Contractor Performance Assessment Reporting System evaluations.

Finding C

DoD Contracting Organizations Did Not Have a Process or Resource for Identifying and Incorporating Kuwaiti Labor Law Requirements Into DoD Contracts to Allow for Tailored TIP Monitoring

As a result of the lack of a process or resource for determining Kuwaiti labor law requirements, DoD contracting organizations could not fully conduct contract oversight of the FAR CTIP clause, which requires contractors to comply with Kuwaiti labor law, and the DoD and its contractors were at risk of violating Kuwaiti labor law. Accordingly, we added Recommendation C.4 to the 2019 report, requesting that the DoD General Counsel resolve the issue of determining the appropriate DoD organization responsible for determining definitive guidance on Kuwaiti labor laws that apply to DoD contracts with performance in Kuwait. We stated that we would close this recommendation pending the DoD General Counsel's determination of the appropriate DoD organization responsible for determining definitive guidance on Kuwaiti labor laws that apply to DoD contracts with performance in Kuwait.

On May 18, 2020, the DoD General Counsel disagreed with our recommendation (see Appendix D for the DoD General Counsel's response to Recommendation C.4), stating that the appropriate process for providing legal guidance on contractor compliance with appropriate labor laws is already in place at the contract level. The DoD General Counsel added that the acquisition counsel advising the contracting officer for that contract is the legal counsel that is most familiar with the contract itself, the contractor and its course of performance, and the services being provided and is in the best position to advise on all aspects of contract compliance. The DoD General Counsel further stated that the DoD's acquisition system is inherently transaction-specific, and contract compliance issues are raised, assessed, and resolved at the contract level, including issues relating to interpretation and application of relevant labor laws. The General Counsel added that this is true whether the question is compliance with U.S. Federal labor laws (for example, the Service Contract Act) or compliance with the labor laws of a foreign nation (for example, Kuwaiti labor laws). Therefore, there is no sole U.S. Government resource for DoD contracting officials to obtain definitive guidance on Kuwaiti labor laws that apply to DoD contracts. Based on the DoD General Counsel's determination, the DoD OIG followup review team concluded that Recommendation C.4 is closed. In addition, the DoD OIG followup

review team concluded that, based on the DoD General Counsel's determination, Recommendations C.1 through C.3 from the 2019 OIG report were resolved and closed. However, in this report, we are making a new recommendation that management provide verification that contracts contain updated CTIP clause information, specifically with regard to the Alternate I CTIP clause, and inclusion of specific Kuwaiti labor law requirements to allow for tailored TIP monitoring.

To highlight the importance of knowing Kuwaiti labor law requirements, the Department of State's 2020 TIP report discussed some of the difficult labor law issues that employers in Kuwait are confronted with. The report stated that the domestic labor law guarantees domestic workers one day off per week, a maximum 12-hour workday, minimum wages paid per month, paid annual leave, and access to file formal grievances at the Ministry of the Interior, among other protections.²⁹ The report provided examples of instances where sponsors subjected migrants to forced labor, sex trafficking, non-payment of wages, protracted working hours contrary to contractual agreements, deprivation of food, substandard housing, threats or harassment, physical or sexual abuse, and restrictions on movement. Additional examples of TIP labor law violations described in the report were confinement to the workplace, passport confiscation, migrant workers who were forced to pay exorbitant fees to recruiting agents or were coerced into paying labor broker fees in Kuwait, and illicit visa contracts that were not written in a language the employee could read. Some illegal labor recruiting companies facilitated trafficking through the use of deceptive techniques, such as unenforceable contracts, fraudulent visas, and nonexistent positions.

However, DoD contracting organizations still do not provide specific Kuwaiti labor law requirements in contracts. As discussed in Finding B, we reviewed 30 Army and 16 Air Force contracts and found that none addressed the specifics of Kuwaiti labor law and did not include the Alternate I CTIP FAR clause for contracts performed outside of the United States, as prescribed in FAR clause 22.1705. The lack of a process or resource for definitively determining Kuwaiti labor law requirements is still occurring because ACC-RI, USAFCENT, and AAFES implement Kuwaiti labor law requirements differently, primarily relying on their contracting officers to make Kuwaiti labor law determinations that apply to DoD contracts. Incorporating Kuwaiti labor law requirements into DoD contracts will assist with the accuracy of monitoring for violations of Kuwaiti labor laws related to TIP.

To evaluate if ACC-RI, USAFCENT, and AAFES met the intent of Recommendations C.1 through C.3, we interviewed ACC-RI, USAFCENT, and AAFES officials and reviewed documentation they provided.

²⁹ Law 68/15 ("Law No. 68 of 2015 on Employment of Domestic Workers").

DoD Contracting Organizations Did Not Have a Process or Resource for Identifying and Incorporating Kuwaiti Labor Law Requirements Into DoD Contracts to Allow for Tailored TIP Monitoring

DoD contracting organizations lacked a process or resource for definitively determining Kuwaiti labor law requirements. In our 2019 report, for Recommendations C.1 through C.3, we recommended that ACC-RI, the Deputy Assistant Secretary of the Air Force for Contracting, and AAFES establish a process or identify a resource for DoD contracting officials to obtain definitive guidance on Kuwaiti labor laws that apply to DoD contracts. We added Recommendation C.4 to the 2019 report, requesting that the DoD General Counsel resolve the issue of determining the appropriate DoD organization responsible for determining definitive guidance on Kuwaiti labor laws that apply to DoD contracts with performance in Kuwait. On May 18, 2020, the DoD General Counsel disagreed with our recommendation, opining that the appropriate process for providing legal guidance on contractor compliance with appropriate labor laws is already in place at the contract level. Therefore, the followup evaluation review team determined that Recommendations C.1 through C.3 from the 2019 OIG report were resolved and closed. However, in this report, we are making a new recommendation that management provide verification that contracts contain updated CTIP clause information, specifically with regard to the Alternate I CTIP clause, and inclusion of specific Kuwaiti labor law requirements to allow for tailored TIP monitoring.

Army, Air Force, and AAFES Had Conflicting Views to Our 2019 Report Findings and Recommendations C.1 Through C.3

Army, Air Force, and AAFES responses related to developing a process or identifying a resource for definitively determining Kuwaiti labor law requirements varied. The 2019 report discusses the following as examples of the differing perspectives: USAFCENT officials cited different methods for applying host-nation laws. A USAFCENT official in the United States stated that the command contacted subject matter experts at the Library of Congress for specialized information, such as which local laws govern employees' work during Ramadan. The Air Force did not have Kuwaiti lawyers or law firms available to interpret and apply Kuwaiti law. In 2019, officials at AAFES told the DoD OIG that they deferred to their contractors to interpret Kuwaiti labor law. However, no AAFES official explained how AAFES could ensure that contractors provided unbiased assessments of their own compliance with legal norms.

However, all three organizations agreed that contracting officers would benefit from a sole U.S. Government resource for Kuwaiti labor law guidance and expertise that apply to DoD contracts, which is why we added Recommendation C.4 to the 2019 report. See Recommendation A.1.b for our determination on a USCENTCOM central contracting office.

In responding to Recommendation C.4, the DoD General Counsel stated that there is no single or centralized DoD organization that is responsible for issuing DoD-wide guidance on how to interpret either U.S. or foreign labor laws. Rather, the local acquisition counsel advising the contracting officer is responsible for providing guidance on all issues relating to contractor compliance with external legal requirements if needed, both foreign and domestic.

Army and Recommendation C.1

Recommendation C.1 recommended that the ACC-RI Executive Director establish a process or identify a resource for ACC-RI contracting officers to obtain definitive guidance on Kuwaiti labor laws that apply to DoD contracts. The ACC-RI Executive Director concurred, but commented that compliance with host nation labor laws must be made by individuals qualified to make that determination. Accordingly, ACC-RI contracts require contractors to obtain necessary expert advice to ensure they perform their contract in compliance with Kuwaiti labor law.

In our response, we stated that the comments did not describe what actions ACC-RI would take to implement the recommendation. Therefore, the recommendation was unresolved and remained open. However, the followup evaluation review team determined that the determination provided by the DoD General Counsel closed Recommendation C.4, and as a result, Recommendation C.1 from the 2019 OIG report is resolved and closed. However, in this report, we are making a new recommendation that management provide verification that contracts contain updated CTIP clause information, specifically with regard to the Alternate I CTIP clause, and inclusion of specific Kuwaiti labor law requirements to allow for tailored TIP monitoring.

Air Force and Recommendation C.2

Recommendation C.2 recommended that the Deputy Assistant Secretary of the Air Force for Contracting establish a process or identify a resource for DoD contracting officials to obtain definitive guidance on Kuwaiti labor laws that apply to DoD contracts. The Chief of Contracting Operations, responding on behalf of the Deputy Assistant Secretary of the Air Force for Contracting, disagreed with our recommendation. The Chief stated that the recommendation improperly assigns the responsibility to the Deputy Assistant Secretary of the Air Force for

Contracting and should be revised to recommend that the USCENTCOM Commander establish a process or identify a resource for DoD contracting officials to obtain guidance on Kuwaiti labor law. The Chief of Contracting Operations stated that DoD Instruction 2200.01, Section 11, requires the combatant commander to develop a “program that establishes a clear set of guidelines and procedures for OCONUS [outside the continental United States] units to address TIP in their operating environments.” Furthermore, the Chief of Contracting Operations stated that Joint Publication 4-10, Section 5.a, requires that the combatant commander work closely with Service components to determine operational contract support requirements.

In our response, we agreed that USCENTCOM could play a role in obtaining definitive guidance on Kuwaiti labor law; however, relying on USCENTCOM for this guidance was problematic because the DoD OIG followup evaluation review team found that the determination provided by the DoD General Counsel closed Recommendation C.4, and as a result, Recommendation C.2 from the 2019 OIG report is resolved and closed. However, in this report, we are making a new recommendation that management provide verification that contracts contain updated CTIP clause information, specifically with regard to the Alternate I CTIP clause, and inclusion of specific Kuwaiti labor law requirements to allow for tailored TIP monitoring.

Army and Air Force Exchange Service and Recommendation C.3

Recommendation C.3 recommended that AAFES establish a process or identify a resource for DoD contracting officials to obtain definitive guidance on Kuwaiti labor laws that apply to DoD contracts.

The AAFES Chief Executive Officer agreed with our recommendation and recommended that a “DoD level policy be implemented which identifies the means and requirements, perhaps in conjunction with the State Department, for securing resources with the requisite expertise to determine and advise on compliance with host nation labor laws.” The Chief Executive Officer stated that AAFES would reach out to the Army Contracting Command and the Deputy Assistant Secretary of the Air Force for Contracting by March 15, 2019, to “further explore how to close this out in a manner that meets DoD OIG’s intention.”

The FAR is the primary regulation that all Federal executive agencies use in their acquisition of supplies and services with appropriated funds. Because AAFES is a non-appropriated fund agency, the FAR and DFARS do not apply to AAFES contracts. However, applicable DoD issuances establish the AAFES procurement policy, and the AAFES policy on CTIP directs contracting officers to include CTIP contracting clauses in all contracts.

In a December 8, 2020, letter responding to our request for information, the AAFES IG stated that AAFES has not hired an attorney with expertise in Kuwaiti labor laws that apply to DoD contracts. However, AAFES understands, along with all other agencies present during the DoD OIG exit brief on December 13, 2018, that this requirement would be specifically addressed by the DoD OIG. The final report was released in June 2019 and a new recommendation, C.4, was added “to better address definitive guidance on Kuwaiti labor law.” This recommendation was sent for implementation to the DoD General Counsel. In fulfillment of the AAFES-specific portion of this requirement, however, AAFES established a productive relationship with the ACC-RI.

The AAFES IG further stated that because AAFES does not have an attorney that specializes in Kuwait labor laws, guidance and expertise is available to AAFES through Area Support Group-Kuwait and the 408th CSB in Kuwait. While AAFES does not routinely have a need to seek guidance from the Area Support Group-Kuwait or the 408th CSB, AAFES does collaborate with teams from the Area Support Group-Kuwait and the 408th CSB when required. Members of the AAFES IG Office and the AAFES contracting team met with the Area Support Group-Kuwait and the 408th CSB in March and April of 2019. All three organizations participated in a joint housing inspection and AAFES exchanged contracting language templates to strengthen each agency’s respective programs. Additionally, AAFES remains active in the DoD’s Quarterly Working Group as a source of CTIP-related expertise. Members from the AAFES Contracting Office presented a briefing at the DoD’s CTIP Task Force Quarterly meeting in October 2020. Following the AAFES presentation, several agencies asked for access to the documents that the AAFES manpower contracting team uses in Kuwait, indicating that it was a more mature process than anything they have. Opportunities such as this allow AAFES to expand its network of agencies that routinely conduct business in Kuwait.

The DoD OIG followup evaluation review team found that the determination provided by the DoD General Counsel closed Recommendation C.4, and as a result, Recommendation C.3 from the 2019 report is resolved and closed. We are not making a new recommendation to AAFES, because AAFES is a non-appropriated fund agency, and the FAR and DFARS do not apply to AAFES contracts. However, applicable DoD issuances establish the AAFES procurement policy, and the updated AAFES policy on CTIP directs contracting officers to include CTIP contracting clauses in all contracts.

DoD Contracting Organizations Do Not Provide Specific Kuwaiti Labor Law Requirements in Contracts to Allow for Tailored TIP Monitoring

DoD contracting organizations do not provide specific Kuwaiti labor law requirements in contracts to allow for tailored TIP monitoring. As discussed in Finding B, we reviewed 30 Army and 16 Air Force contracts and found that none addressed the specifics of Kuwaiti labor law or included the Alternate I CTIP FAR clause for contracts performed outside of the United States, as prescribed in FAR clause 22.1705. As previously stated, the Department of State's 2020 TIP report discusses some of the difficult labor law issues that employers in Kuwaiti are confronted with.

Importance of Inserting Kuwaiti Labor Law Requirements in the Alternate I CTIP Clause

Clearly defining Kuwaiti labor laws will provide a better mechanism for monitoring labor law practices associated with TIP. As discussed in Finding B, we reviewed 30 ACC-RI and 16 USAFCENT contracts and determined that, with respect to the Alternate I CTIP clause for contracts performed outside of the United States, as prescribed in FAR clause 22.1705, and Contracting Officers should take the following actions:

- insert FAR clause 52.222-50, Combating Trafficking in Persons, in all solicitations and contracts;
- use the clause with its Alternate I when the contract will be performed outside the United States (as defined at 22.1702) and the contracting officer has been notified of specific U.S. directives or notices regarding combating trafficking in persons that apply to contractor employees at the contract place of performance; and
- insert the provision at 52.222-56, Certification Regarding Trafficking in Persons Compliance Plan, in solicitations if:
 - it is possible that at least \$500,000 of the value of the contract may be performed outside the United States; and
 - the acquisition is not entirely for commercially available off-the-shelf items.

Regulatory Revisions to FAR Subpart 22.17 – Combating Trafficking in Persons

The Office of Management and Budget memorandum at Appendix E states that FAR Subpart 22.17 sets forth regulatory guidance to implement the improved safeguards called for by Title XVII of the NDAA for FY 2013 and Executive Order 13627.³⁰ These safeguards include a number of prohibitions on certain types of trafficking-related activities (for example, prohibition on charging employees recruitment fees and destroying, concealing, confiscating or otherwise denying access to identity or immigration documents) and risk management practices (for example, an employee awareness program, a recruitment and wage plan, and a housing plan).

Specifically, in March 2015, revisions to FAR Subpart 22.17, and the corresponding clause at 52.222-50 relating to trafficking in persons in Federal contracts, became effective for all new contract awards and for all new orders under existing indefinite delivery, indefinite quantity contracts. The revisions strengthen the longstanding ban against human trafficking by:

- clearly identifying prohibited trafficking-related activities for all products and services;
- imposing additional requirements on contractors regarding their own employees, such as informing employees of prohibited activities and the consequences for violations;
- requiring contractors to notify contracting officers and agency IGs of any credible information alleging anti-trafficking prohibition violations and any actions taken in response, and providing access to facilities and staff to allow audits, investigations, and other actions to determine compliance;³¹
- imposing additional responsibilities for any portion of a contract or subcontract in excess of \$500,000 performed outside the United States that involves the acquisition of non-commercial off-the-shelf goods or the performance of services;
- requiring contractors to certify that they developed and implemented CTIP compliance plans;³² and
- requiring prime contractors to include clause 52.222-50 in subcontracts for contracts in excess of \$500,000 performed outside the United States that involve the provision of acquisition of non-commercial off-the-shelf goods or the performance of services.

³⁰ FAR Subpart 22-17, “Combating Trafficking in Persons,” March 2, 2015.

³¹ FAR 52.222-50(d) and (g).

³² FAR 52.222-50(h).

The OMB memorandum also states that Title XVII of the NDAA for FY 2013 and FAR subpart 22.17 require Federal contractors to work proactively to prevent human trafficking in their supply chains and take remedial steps if such activities are identified. Contractors have also sought additional information on how best to manage risk and minimize the compliance costs associated with the law and regulation, which include certifications, violation reporting, compliance plans, and other proactive measures. Accordingly, the guidance:

- reviews the key responsibilities of FAR Subpart 22.17;
- highlights best practices shown to contribute to effective deterrence;
- describes mitigation actions that contracting officers should consider in evaluating the suitability of steps taken by a contractor that has reported a trafficking incident; and
- provides responses to frequently asked questions regarding the final FAR rule.

Other Operational Contracting Policies

DoD Instruction 3020.41, paragraph 4c(3), states that contracting officers must ensure that contracts used to support DoD operations address any applicable host country and designated operational area performance considerations.³³

Joint Publication 4-10, Chapter V, paragraph 1b(4), states that to avoid unscrupulous labor practices, per DoD CTIP policy, the geographic combatant commander is required to establish mission-specific CTIP policies and procedures. To ensure appropriate awareness of supporting contracting support organizations and contractors, these policies and procedures should be posted to the combatant command's operational contract support webpage. All supporting contracting organizations are responsible for including the FAR CTIP clause and incorporating any related combatant command CTIP guidance in their contracts. The supported combatant command, subordinate Joint Task Force, and Service component commands must take great care to avoid contractor management-related actions that may be construed as TIP. Specific concerns in this area include, but are not limited to, illegal confiscation of passports, providing substandard housing, forcing sex acts, and use of unlicensed labor brokers (normally through subcontractors) to avoid deployment preparation requirements. Commanders, per DoD Instruction 2200.01, should ensure all deployed personnel receive training on CTIP to promptly report any alleged incidences of CTIP to law enforcement. Commanders, in coordination with the requisite contracting officer, should also ensure routine

³³ DoD Instruction 3020.41, "Operational Contract Support (OCS)," December 20, 2011, (Incorporating Change 2, August 31, 2018).

health and safety inspections are conducted on applicable contractor personnel working areas and living spaces and ensure any violations are promptly addressed with the contractor via the COR and contracting officer.

DoD contracting organizations still do not provide specific Kuwaiti labor law requirements in contracts to enable TIP monitoring. Based on the DoD OIG follow-up review team's evaluation of 30 Army and 16 Air Force contracts, none of the contracts addressed the specifics of Kuwaiti labor law. Specifically, the Alternate I CTIP FAR clause was not included for contracts performed outside of the United States, as prescribed in FAR clause 22.1705. Therefore, the DoD OIG follow-up review team is making two new recommendations to ensure that contracts performed outside of the United States contain updated CTIP clause information, specifically with regard to the Alternate I CTIP clause and inclusion of specific Kuwaiti labor law requirements, to allow for tailored TIP monitoring.

Conclusion

DoD contracting organizations still do not provide specific Kuwaiti labor law requirements in contracts to allow for TIP monitoring. As discussed in Finding B, we reviewed 30 Army and 16 Air Force contracts and found that none of them addressed the specifics of Kuwaiti labor law. Specifically, the Alternate I CTIP FAR clause was not included for contracts performed outside of the United States, as prescribed in FAR clause 22.1705.

The Office of Management and Budget's guidance at Appendix E of this report and DoD and FAR policy, especially as it relates to the Alternate I CTIP clause, discusses the requirements for and the assistance that can be provided to contracting activities to definitively determine Kuwaiti labor law requirements related to their contracting activity. The Office of Management and Budget's guidance and FAR policy provide the necessary direction for ACC-RI and USAFCENT contracting officers to add the required CTIP clauses and associated details to monitor for CTIP violations using appropriately documented compliance plans, QASPs, and entries to the CPARS database.

We closed Recommendations C.1 through C.4 from our 2019 report, based on the DoD General Counsel's determination that the appropriate process for providing legal guidance on contractor compliance with appropriate labor laws is already in place at the contract level. The DoD General Counsel further determined that the acquisition counsel advising the contracting officer for that contract is the

legal counsel that is most familiar with the contract itself, the contractor and its course of performance, and the services being provided and is in the best position to advise on all aspects of contract compliance. Therefore, there is no sole U.S. Government resource for DoD contracting officials to obtain definitive guidance on Kuwaiti labor laws that apply to DoD contracts. As a result of the DoD General Counsel's determination, the DoD OIG followup review team concluded that Recommendation C.4 is closed. In addition, the DoD OIG followup review team concluded that based on the DoD General Counsel's determination, Recommendations C.1 through C.3 from the 2019 OIG report were resolved and closed. However, in this report, we are making a new recommendation that management provide verification that contracts contain updated CTIP clause information, specifically with regard to the Alternate I CTIP clause, and inclusion of specific Kuwaiti labor law requirements to allow for tailored TIP monitoring.

Because TIP monitoring did not include specific Kuwaiti labor law requirements, DoD contractors in Kuwait may have engaged in TIP that the CORs did not detect and, therefore, did not report to contracting officers. Additionally, not properly monitoring DoD contractors for CTIP compliance could have allowed human trafficking to occur under DoD contracts funded with U.S. funds, contrary to U.S. law and the DoD's zero-tolerance policy.

Therefore, we are making two new recommendations in this followup report. The two new recommendations are based on our review of 46 contracts lacking Kuwaiti labor law requirements and our analysis with regard to the Alternate I CTIP FAR clause for contracts performed outside of the United States, as prescribed in FAR clause 22.1705. DoD contracts should contain specific information on Kuwaiti labor law requirements to allow for tailored TIP monitoring.

Therefore, we recommend that ACC-RI and USAFCENT provide verification that the contracts we reviewed during the course of this followup evaluation contain updated CTIP clause information, including the Alternate I CTIP clause, and specific Kuwaiti labor law requirements to allow for tailored TIP monitoring.

Recommendation, Management Comments, and Our Response

Recommendation C.1

We recommend that the Commander of the Army Contracting Command-Rock Island provide verification that the contracts we reviewed at Appendix F during the course of this followup evaluation contain updated combating trafficking in persons clause information, specifically with regard to the Alternate I combating trafficking in persons clause, and inclusion of specific Kuwaiti labor law requirements to allow for tailored trafficking in persons monitoring.

U.S. Army Contracting Command-Rock Island Comments

The ACC-RI Executive Director, responding on behalf of the ACC-RI Commander, agreed with Recommendation C.1. The Executive Director stated that ACC-RI executed modifications for the contracts identified and that the modifications contain the required FAR citations. In addition, the ACC-RI provided a spreadsheet detailing the dates of the contract modifications and stated that the modifications and dates can be verified in the ACC-RI Paperless Contracting Files.

- The ACC-RI Executive Director further stated that Kuwaiti labor law requirements are not spelled out in the modifications because labor laws can and do change and it is incumbent upon the contractors to hire the appropriate staff to monitor and comply with all applicable labor laws. He further stated that each contract with performance overseas requires compliance with applicable host nation laws and regulations as stated in the contract award, meeting the intent of this recommendation.

Finally, the ACC-RI Executive Director stated that Contracting Officers are not experts in labor laws and require contractors to comply through their engagement with the host nation. When issues do arise that require interpretation, coordination is made through legal channels, which was explained by the ACC-RI Executive Director in the original response to the findings.

Our Response

Comments from the ACC-RI Executive Director addressed the intent of the recommendation; therefore, the recommendation is resolved and open. We will close the recommendation once we obtain and verify, in ACC-RI's Paperless Contracting Files, that the ACC-RI executed modifications to the contracts at Appendix F. This can be accomplished in conjunction with Recommendation B.1.e,

once the ACC-RI Director of Contracting validates CTIP-related information in the Contractor Performance Assessment Reporting System by March 31, 2022, and provides those validated records to the DoD OIG upon completion.

In addition, ACC-RI's description of managing host nation labor law issues is as described in the DoD Office of General Counsel's response at Appendix D and meets the intent of this recommendation.

Recommendation C.2

We recommend that the Commander of U.S. Air Forces Central provide verification that the contracts we reviewed at Appendix G during the course of this followup evaluation contain updated combating trafficking in persons clause information, specifically with regard to the Alternate I combating trafficking in persons clause, and inclusion of specific Kuwaiti labor law requirements to allow for tailored trafficking in persons monitoring.

U.S. Air Forces Central Comments

The USAFCENT Director of Manpower, Personnel, and Services, responding on behalf of the USAFCENT Commander, agreed with Recommendation C.2. The Director stated that USAFCENT will ensure that the 386th Expeditionary Contracting Squadron will review the contracts listed in Appendix G and modify them, as necessary, to make sure they contain the CTIP clause information and Alternate I CTIP Clause in accordance with the FAR and DFARS. The Director also stated that the Expeditionary Contracting Squadron will coordinate with legal personnel onsite to incorporate information specific to Kuwaiti labor law requirements.

The estimated completion date for contract review and verification is September 30, 2022.

Our Response

Comments from the USAFCENT Director of Manpower, Personnel, and Services addressed the intent of the recommendation; therefore, the recommendation is resolved and open. We will close the recommendation once we obtain and verify that USAFCENT modified contracts in Appendix G to contain the CTIP clause information and Alternate I CTIP Clause in accordance with the FAR and DFARS. USAFCENT's description of managing host nation labor law issues is as described in the DoD Office of General Counsel's response at Appendix D and meets the intent of this recommendation.

Finding D

The 408th Contracting Support Brigade Provided Sufficient Personnel to Conduct Specialized CTIP Contract Surveillance

The 408th Contracting Support Brigade (CSB) provided sufficient personnel to conduct specialized CTIP contract surveillance. In the 2019 report, Recommendation D.1 was resolved and open based on information provided by the 408th CSB. Our 2019 report concluded that the 408th CSB established a CTIP inspection team that successfully identified contractor TIP violations in Kuwait. In addition, in November 2019, the 408th CSB Commander added CTIP duties to current position descriptions to ensure that the CTIP program the 408th CSB presently conducts is enduring, properly staffed, and sufficiently resourced. The DoD OIG followup evaluation review team concluded that the current CTIP program of the 408th CSB is properly staffed and sufficiently resourced. Therefore, this recommendation is closed.

In our 2019 report, recommendation D.2 was unresolved and open based on information provided by the 408th CSB. We recommended that the USCENTCOM Commander create designated CTIP inspection teams and personnel billets to provide oversight of DoD contracts in countries for which it has command responsibility and that have potential TIP problems. However, the DoD OIG follow-up review team determined that the recommendation for USCENTCOM to provide personnel to conduct specialized CTIP contract surveillance is resolved and closed because USCENTCOM does not have contracting authority. Rather, the contracting activity executing the contract is responsible for ensuring that DoD policy guidance and applicable contracting clauses are incorporated into contracts performed in the USCENTCOM AOR. Therefore, because USCENTCOM does not have contracting authority, and the 408th Contracting Support Brigade already conducts contracting surveillance as required, the recommendation is closed.

To evaluate if the 408th CSB and USCENTCOM met the intent of Recommendations D.1 and D.2, the DoD OIG followup review team interviewed 408th CSB and USCENTCOM officials and reviewed documentation provided by the 408th CSB and USCENTCOM.

Staffing for Specialized CTIP Contract Surveillance Was Conducted by the 408th CSB

To determine if the 408th CSB Commander added CTIP duties to position descriptions to ensure that the CTIP program the 408th CSB presently conducts is enduring, properly staffed, and sufficiently resourced, the DoD OIG followup review team analyzed the 408th CSB's current position descriptions, standard operating procedures, and the execution of its CTIP oversight functions. Staffing for specialized CTIP contract surveillance was provided by the 408th CSB. Our 2019 report determined that the 408th CSB established a CTIP inspection team that successfully identified contractor TIP violations in Kuwait and that the contracting activity executing the contract was responsible for oversight of the FAR CTIP clause and monitoring for TIP violations and not USCENTCOM or its components.

In our 2019 report for Recommendation D.1, we recommended that the 408th CSB Commander request a designated mission and permanent billets to support its CTIP inspections team. However, the 408th CSB Commander non-concurred with regard to adding additional billets to the 408th CSB's organizational structure, instead pledging to add CTIP duties to current position descriptions and implement measures to ensure that the CTIP program the 408th CSB presently conducted was enduring and properly staffed and resourced.

According to the 408th CSB Commander, in October 2019, the ACC-RI adopted a CTIP standard operating procedure that specifies the composition and duties of the CTIP team members. The Commander concluded that the 408th CSB did not need to add additional billets to the brigade organizational structure at that time but would adjust its staffing accordingly, as the theater of operations and contracts expand. However, the 2019 DoD OIG evaluation team disagreed and determined that formalizing the positions in a manning document would prevent future leadership from deciding against conducting these additional responsibilities. Our 2019 report stated that we would close the recommendation once we verify that the position descriptions had been updated to include CTIP duties. Because the position descriptions have been updated, this recommendation is closed.

The 408th CSB Inspection Team Operates From Existing Personnel Billets

The Army's 408th CSB, located in Kuwait, established an internal two-person CTIP inspection team from existing personnel without establishing additional billets for the inspection team. This inspection team was created because the 408th CSB identified a pressing need to increase oversight of the FAR CTIP clause in response to multiple allegations of DoD contractors violating TIP laws.

Since its formation, the first CTIP inspection team and subsequent iterations have uncovered numerous cases of suspected TIP and brought them to the attention of contracting officers. However, our 2019 report determined that without authorized positions in the organizational structure, this continued success was at risk and that future rotations of 408th CSB leadership could eliminate the CTIP inspection team and reduce necessary CTIP oversight.

The 408th CSB is tasked with planning, coordinating, and executing contract support within the U.S. Army Central AOR. The 408th CSB has two battalion-level commands – Regional Contracting Center-Kuwait and Regional Contracting Center-Qatar. Additionally, the 408th CSB provides mission command to Regional Contracting Center-Iraq and contracting teams in support of operations across the USCENTCOM AOR. The 408th CSB manages contracts totaling more than \$11 billion and uses more than 18,000 contractors.

The 408th CSB Commander stated that the brigade's mission includes execution of its CTIP oversight functions by warranted ACOs who are supported by a task-organized QA/CTIP inspection team. The QA/CTIP team has implemented a risk-based surveillance program that assists with compliance with FAR clause 52.222-50. The QA/CTIP Inspection Team is resourced by and located within the Regional Contracting Center-Kuwait (RCC-KU), a subordinate organization of the 408th CSB. The brigade leadership considers the current organization sufficient to meet mission requirements, including its responsibility for CTIP oversight. Additionally, the RCC-KU ACOs play a key role in the CTIP surveillances conducted on their contracts. The ACOs frequently attend the CTIP surveillance and provide greater contractual insight to the QA/CTIP team during the routine surveillance.

The RCC-KU developed a QA/CTIP standard operating procedure to aid the brigade, through its contracting officers, with tools needed to perform its CTIP oversight role. The standard operating procedure ensures sufficient permanence of the QA/CTIP team by specifying the composition and duties of the QA/CTIP team members and that the CTIP noncommissioned officer be appointed in writing by the RCC-KU Commander. In addition, the QA/CTIP team provides a monthly brief to the RCC-KU leadership on CTIP inspections, actions, and issues. Subsequently, these CTIP issues are further discussed at the 408th CSB procurement update briefs, which includes the brigade commander, staff, and all RCC commanders. The standard operating procedure is updated annually and the last update was completed on December 1, 2020.

The QA/CTIP team is nested with the RCC-KU QA section to monitor contractor CTIP performance. All personnel in the QA section conduct CTIP surveillance and are involved with Contractor Compliance Review, Management Review, and Housing Surveillance. Moreover, the ACO is made aware of CTIP allegations and every Contractor Management and Housing CTIP surveillance. The 408th CSB ACOs are proactive with CTIP and are present at the Contractor Surveillance and when following up on employee allegations.

We concluded in our 2019 report that the 408th CSB established a CTIP Inspection Team that successfully identified contractor TIP violations in Kuwait. During this current evaluation of the 408th CSB's staffing for specialized CTIP contract surveillance, we determined that the 408th CSB maintained its specialized staff and continued to conduct CTIP contract surveillance. In addition, the 408th CSB Commander added CTIP duties to current position descriptions to ensure that the CTIP program the 408th CSB presently employs is enduring, properly staffed, and resourced. Therefore, we determined that this recommendation is resolved and closed.

Staffing for Specialized CTIP Contract Surveillance Was Not Required by USCENTCOM

In our 2019 report for Recommendation D.2, we recommended that the USCENTCOM Commander create designated CTIP Inspection Teams and personnel billets to provide oversight of DoD contracts in countries for which it has command responsibility and that have potential TIP problems. However, the DoD OIG follow-up review team determined that the recommendation for USCENTCOM to provide personnel to conduct specialized CTIP contract surveillance is resolved and closed because USCENTCOM does not have contracting authority.

The USCENTCOM Chief of Staff, responding for the USCENTCOM Commander, disagreed with our recommendation, stating that USCENTCOM does not have contracting authority and that the contracting agency executing the contract is responsible for ensuring that DoD policy guidance and applicable contracting clauses are incorporated into USCENTCOM contracts.

In the 2019 report, we initially disagreed with the management comments from the Chief of Staff because, based on our review of Joint Publication 4-10, we concluded that the USCENTCOM Commander had a critical role in planning and integrating operational contract support in the command's AOR, including inspections of contractor working areas and living spaces. At that time, the recommendation was unresolved and remained open.

In conducting this followup evaluation, we reviewed the CTIP surveillance responsibilities in Joint Publication 4-10 and concluded that USCENTCOM does not have contracting authority and the contracting agency executing the contract is responsible for ensuring that DoD policy guidance and applicable contracting clauses are incorporated into USCENTCOM contracts.

Therefore, we determined that this recommendation is resolved and closed.

Appendix A

Scope and Methodology

We conducted this followup evaluation from September 2020 through February 2022 in accordance with the “Quality Standards for Inspection and Evaluation,” published in January 2012 by the Council of Inspectors General on Integrity and Efficiency. Those standards require that we adequately plan the evaluation to ensure that objectives are met and that we perform the evaluation to obtain sufficient, competent, and relevant evidence to support the findings, conclusions, and recommendations. We believe that the evidence obtained was sufficient, competent, and relevant to lead a reasonable person to sustain the findings, conclusions, and recommendations.

The objective and scope of this followup evaluation was to determine whether the DoD implemented corrective actions for report recommendations in DODIG-2019-088, “Evaluation of DoD Efforts to Combat Trafficking in Persons in Kuwait,” June 11, 2019, and ensure the measures taken by ACC-RI, USAFCENT, and AAFES met the intent of the 22 recommendations.

To address and achieve the objective for this report, we reviewed the following.

- National Security Presidential Directive 22, “Combating Trafficking in Persons,” December 16, 2002
- Executive Order 13627, “Strengthening Protections Against Trafficking in Persons in Federal Contracts,” September 25, 2012
- Title XVII of the FY 2013 National Defense Authorization Act, “Ending Trafficking in Government Contracting,” January 2, 2013
- Public Law 106-386, “Trafficking Victims Protection Act of 2000,” October 28, 2000
- Public Law 115-425, “Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018,” January 8, 2019
- Office of Management and Budget memorandum M-20-01, “Anti-Trafficking Risk Management Best Practices & Mitigation Considerations,” October 21, 2019
- DoD Instruction 2200.01, “Combating Trafficking in Persons (CTIP),” April 21, 2015, (Incorporating Change 1, April 5, 2017)
- DoD Instruction 2200.01, “Combating Trafficking in Persons (CTIP),” June 21, 2019

- DoD Instruction 3020.41, “Operational Contract Support (OCS),” December 20, 2011, (Incorporating Change 2, August 31, 2018)
- Joint Publication 4-10, “Operational Contract Support,” March 4, 2019
- Air Force Instruction 36-2921, “Combating Trafficking in Persons (CTIP),” August 30, 2011
- Air Force Instruction DODI2200.01_AFI36-2921, “Combating Trafficking in Persons (CTIP),” September 20, 2019
- Central Command Regulation 570-4, “Combating Trafficking in Persons,” May 22, 2008
- Central Command Regulation 570-4, “Combating Trafficking in Persons,” November 15, 2019
- Army and Air Force Exchange Service Exchange Operating Policy 08-08, “Exchange Policy on Combating Trafficking In Persons,” June 2018
- Army and Air Force Exchange Service Exchange Operating Policy 08-08, “Exchange Policy on Combating Trafficking In Persons,” November 2019
- FAR Subpart 22-17, “Combating Trafficking in Persons,” March 2, 2015

Additionally, we interviewed or received information from personnel from the following offices.

- Office of the Under Secretary of Defense for Personnel and Readiness
- Defense Human Resources Activity, CTIP PMO
- AAFES
- U.S. Army Contracting Command–Rock Island
- U.S. Central Command headquarters
- U.S. Air Forces Central

To validate the implementation of recommendations from our 2019 report and ensure that the actions met the intent of the recommendations, we obtained and reviewed the CFR, FAR, DFARS, QASPs, signed memorandums, DoD issuances, appointment and delegation orders, strategic and implementation plans, inspection operating procedures, inspection criteria checklists, Air Force Auditor General audit findings, and e-mail correspondence.

Use of Computer-Processed Data

We assessed the reliability of data by (1) performing electronic testing, (2) reviewing existing information about the data and the system that produced them, and (3) interviewing agency officials knowledgeable about the data. Both ACC-RI and USAFCENT provided a consolidated list of service contracts, including subcontracts, for FY 2020 with the place of performance in Kuwait. We determined that the data were sufficiently reliable for the purposes of this report.

Specifically, we:

- found each contract in the list of 30 contracts provided by ACC-RI in the Paperless Contract File database and determined the list of contracts provided by ACC-RI and the Paperless Contract File to be reliable; and
- found each contract in the list of 16 contracts provided by USAFCENT in the Electronic Data Access module of the Procurement Integrated Enterprise Environment database and determined the list of contracts provided by USAFCENT and the Electronic Data Access module to be reliable.

We used the same lists of contracts to find information in CPARS to determine whether Contracting Officers entered CTIP-related data such as the CTIP FAR clause compliance, QASP monitoring instructions, and CPARS evaluations as required by the FAR. We reviewed search result reports and determined that the information we obtained was sufficiently reliable to support our conclusions.

Appendix B

Prior Coverage

During the last 5 years, the Government Accountability Office (GAO), the DoD Office of Inspector General (DoD OIG), the Department of State (DOS), the Department of Justice (DOJ), and the Department of the Air Force issued 14 reports discussing TIP-related statutory provisions, challenges, and issues Federal agencies faced when combating human trafficking, including oversight of contractors' use of foreign workers.

Unrestricted GAO reports can be accessed at <http://www.gao.gov>.

Unrestricted DoD OIG reports can be accessed at <http://www.dodig.mil/reports.html/>.

Unrestricted DOS OIG reports can be accessed at <https://www.state.gov/j/tip/rls/tiprpt/>.

Unrestricted DOJ OIG reports can be accessed at <https://oig.justice.gov/reports/all.htm/>.

Unrestricted Air Force Audit Agency reports can be accessed from <https://www.afaa.af.mil/> by clicking on Freedom of Information Act Reading Room and then selecting audit reports.

GAO

Report No. GAO-21-546, "DOD Should Address Weaknesses in Oversight of Contractors and Reporting of Investigations Related to Contracts," August 2021

GAO and DoDIG reports on overseas U.S. military operations have highlighted TIP among foreign workers employed on contracts. Congress included a provision in the conference report for the National Defense Authorization Act for Fiscal Year 2020 for GAO to review DoD's efforts to combat TIP related to contracts. The report examines, among other things: the extent to which selected DoD components have implemented oversight and training requirements for CTIP in contracts and the extent to which selected DoD components have tracked and reported investigations of TIP incidents in contracts from Fiscal Years 2015 through 2020. GAO analyzed Federal laws and DoD guidance, regulations, contracts, and data related to CTIP. GAO also interviewed DoD officials, including Army and Navy officials responsible for overseeing contracts in U.S. Southern Command.

GAO made six recommendations to improve DoD oversight of contractors' CTIP efforts and reporting of TIP in contracts: two to strengthen guidance on oversight, one to reinstate requirements on reporting the percentage of people trained, and three to clarify guidance for reporting on TIP investigations. The DoD concurred with all of the recommendations.

Report No. GAO-19-77, "State and USAID Should Improve Their Monitoring of International Counter-trafficking Projects," December 2018

The GAO found that in 2017, the Departments of State and Labor and the U.S. Agency for International Development managed a total of 120 international counter-human-trafficking projects across more than 40 different countries.

The Department of State managed a short-term assistance project aimed at protecting human trafficking victims in emergency situations. The Department of Labor managed a project with a goal to help bring local and national laws and policies into alignment with international labor standards. The agencies also addressed human trafficking concerns in projects focused on other issues. For example, the United States Agency for International Development included counter-trafficking and counter-child-labor activities in its project to help rebuild Ghana's fishery industry through responsible practices. The GAO determined that the Department of State and the United States Agency for International Development used inconsistent and incomplete information to assess project performance and could not fully or accurately measure the projects or how they could improve their efforts.

DoD OIG

Report No. DODIG-2019-088, "Evaluation of DoD Efforts to Combat Trafficking in Persons in Kuwait," June 11, 2019

The DoD OIG found that DoD officials at USCENTCOM did not consistently enforce DoD and command regulations regarding the identification of TIP and the oversight of CTIP in Kuwait. As a result, USCENTCOM was at an increased risk of not detecting or correcting and underreporting labor TIP on U.S. military bases. In addition, DoD contracting personnel did not always ensure that contracts performed in Kuwait complied with the FAR CTIP clause. Specifically, Army and Air Force contracting officers did not always confirm that contracts included the required clauses and had oversight plans, and AAFES personnel did not consistently monitor for contractor CTIP compliance, document their monitoring, and report results to contracting officers.

Furthermore, the FAR prohibits U.S. contractors from engaging in various forms of TIP and defines these practices with reference to the host-nation labor and wage laws. However, DoD contracting organizations lacked a process for determining Kuwaiti labor law requirements regarding wage, housing, and safety standards. Therefore, DoD contracting organizations could not fully conduct objective contract oversight of the FAR CTIP clause that requires contractors to comply with Kuwaiti labor laws.

Report No. DODIG-2017-062, “Kuwait Base Operations and Security Support Services (KBOSSS) Contract,” March 7, 2017

The DoD OIG found that the Army did not effectively monitor contractor performance for the KBOSSS contract. Specifically, ASG-KU, ACC-RI, and the 408th CSB did not establish written guidance that clearly defined the roles and responsibilities of KBOSSS oversight personnel and did not develop a process to accurately track CORs and COR reporting, which created gaps in contractor monitoring. In addition, ACC-RI and the 408th CSB did not define Performance Evaluation Meeting requirements for personnel responsible for contract oversight.

Report No. DODIG-2018-074, “The U.S. Navy’s Oversight and Administration of the Base Support Contracts in Bahrain,” February 13, 2018

The DoD OIG found that the Navy did not provide effective oversight of the base support contracts in Bahrain. Specifically, the CORs relied on performance assessment representatives—who were foreign national direct hires at Naval Support Activity-Bahrain and foreign national contractors at Isa Air Base—to execute all QA oversight of the contractors. However, the CORs did not ensure that the performance assessment representatives oversaw all contractual requirements or possessed the knowledge and experience to oversee their respective annexes.

In addition, the Navy had no assurance that Naval Support Activity-Bahrain and Isa Air Base Operating Support Services contractors complied with CTIP requirements.

DOS OIG

Report No. DOS 2020, “The 2020 Trafficking in Persons Report,” June 2020

The Department of State determined that the Government of Kuwait demonstrated overall increasing efforts by deploying its specialized trafficking unit to initiate more criminal investigations of potential trafficking crimes and more prosecutions and convictions under the anti-trafficking law, including

of two former Kuwaiti officials. The Kuwaiti government referred more potential trafficking victims to protective services, convened its anti-trafficking committee for the first time, and aimed to prevent trafficking by referring to the courts hundreds of potential cases that violated local labor laws and closing down or revoking licenses for companies engaged in improprieties that facilitated trafficking and trafficking-related crimes.

Report No. DOS 2019, "The 2019 Trafficking in Persons Report," June 2019

The Department of State determined that, generally Kuwaiti authorities did not categorize or investigate labor violations of domestic workers as human trafficking and continued to typically treat such cases as administrative infractions. Officials commonly used arbitration, which resulted in monetary compensation and repayment of back-wages to victims, administrative fines, and closure of recruitment firms to resolve such cases.

Report No. DOS 2018, "The 2018 Trafficking in Persons Report," June 2018

The Department of State provided recommendations for effective ways local communities can address human trafficking proactively and ways that national governments can support and empower them. The recommended methods for local communities included engaging and training law enforcement, religious leaders, teachers, tribal elders, business executives, and communities, and becoming more vigilant and learning to identify and address vulnerabilities swiftly. The Department of State determined that the government of Kuwait did not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. Specifically, the government initiated more investigations and prosecutions; referred significantly more cases of illegal recruitment for criminal investigation; amended the domestic worker law to dis-incentivize unscrupulous recruiting practices; and operationalized a government-run central recruitment company to reduce recruitment costs and combat illegal recruiting fees.

Report No. DOS 2017, "The 2017 Trafficking in Persons Report," November 2017

The Department of State determined that in the past 5 years, Kuwait has been a destination country for men and women subjected to forced labor and, to a lesser degree, forced prostitution. The report determined that Kuwait is a Tier 2 Watch List country and since 2008 has received over 4,000 North Korean laborers for forced labor on construction projects, including employees who worked 14 to 16 hours a day while the company retained 80 to 90 percent of the workers' wages. These companies also monitor and confine the workers, who live in impoverished conditions and are in very poor health due to lack of adequate nutrition and health care.

Report No. DOS 2016, “The 2016 Trafficking in Persons Report,” June 2016

The 2016 Department of State report, like the 2017 report, indicated that Kuwait is a destination country for men and women subjected to forced labor and, to a lesser degree, forced prostitution. Men and women migrate from South and Southeast Asia, Egypt, the Middle East, and increasingly throughout Africa to work in Kuwait, mainly in the domestic service, construction, hospitality, and sanitation sectors. This report determined that the government of Kuwait did not fully meet the minimum standards for the elimination of trafficking but was making significant efforts to do so. The government investigated six cases and prosecuted 20 traffickers during the reporting period in comparison to none the previous year. For the first time, it convicted eight traffickers under the 2013 anti-trafficking law.

DOJ OIG

Attorney General’s Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons Fiscal Year 2018, April 28, 2020

This report detailed the activities and programs carried out by the U.S. Government to eradicate human trafficking in FY 2018, including its work to protect victims, investigate and prosecute human trafficking crimes, and prevent further trafficking-related crimes. This report included information reported to the Department of Justice by other U.S. governmental agencies and departments involved in anti trafficking efforts. For example, it included information that in FY 2018, the Services, combatant commands, and Defense agencies reported 141 human trafficking or trafficking-related cases (117 sex trafficking or related cases, 23 forced labor cases, and 1 “other” type of human trafficking case). Investigated individuals included 119 military members, 6 civilians, 24 contractors, and 1 unknown individual.

Attorney General’s Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons Fiscal Year 2017

This report detailed the activities and programs carried out by the U.S. Government to eradicate human trafficking in FY 2017, including its work to protect victims, investigate and prosecute human trafficking crimes, and prevent further trafficking-related crimes. This report included information reported to the Department of Justice by other U.S. governmental agencies and departments involved in anti trafficking efforts. For example, it included information that the DoD reported 63 human trafficking or human trafficking-related cases from the Armed Services, combatant commands, and Defense agencies. Also, the

DoD Defense Institute of International Legal Studies collaborated with foreign partner militaries in more than 50 countries to provide training on human trafficking, reaching an estimated 2,200 foreign military members.

Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons Fiscal Year 2016

This report detailed the activities and programs carried out by the U.S. Government to eradicate human trafficking in FY 2016, including its work to protect victims, investigate and prosecute human trafficking crimes, and prevent further trafficking-related crimes. This report included information reported to the Department of Justice by other U.S. governmental agencies and departments involved in anti trafficking efforts. For example, it included information that DoD CTIP program management hosted a quarterly CTIP Task Force meeting that featured two members of the U.S. Advisory Council on Human Trafficking.

Air Force

Report No. F2018-0008-L30000, "Contract Administration in a Contingency Environment," September 12, 2018

This report detailed contingency contracting, which provides supplies and services to support mission objectives in contingency environments. Contract administration is the oversight function to ensure both the Government and contractor meet the specified terms and conditions in accordance with performance standards expressed in the contract. Implementing effective QA measures and monitoring contract performance, to include CTIP compliance, is critical to achieving these goals. The Air Force determined that Air Force contracting personnel did not consistently manage contract activities in contingency environments in accordance with Air Force and FAR guidance. Specifically, Air Force personnel did not plan and administer selected aspects of sampled service contracts or provide required QA over contractor performance.

Appendix C

Status of Recommendations from Report No. DODIG-2019-088

The ACC-RI, USAFCENT, and AAFES implemented or met the intent for 14 of the 22 recommendations from the 2019 report. However, 8 of the 22 recommendations from the 2019 report have not been fully implemented and remain open. In addition, all eight of the originally unresolved recommendations from the 2019 report are now closed. We make two new recommendations in this followup report. The table below provides a status of the 22 recommendations from our 2019 report.

Table. Followup Status of the 2019 Recommendations

Recommendation	Status At The Start Of This Followup Evaluation	Status Of Recommendation Implementation
A.1.a. USCENTCOM Commander enforce all aspects of CCR 570-4 throughout the command's AOR.	Unresolved, open	Closed
A.1.b. USCENTCOM Commander clearly assign roles and responsibilities to its subordinate commands regarding CTIP, including formally designating an appropriate command headquarters in Kuwait to be responsible for CTIP compliance.	Unresolved, open	Closed
A.1.c. USCENTCOM Commander collect and report data on all TIP incidents, investigations, prosecutions, and training programs in the USCENTCOM AOR to the DoD's CTIP program management office.	Unresolved, open	Closed
A.2. USAFCENT Commander develop and implement a CTIP program, as required by CCR 570-4.	Resolved, open	Resolved, open
B.1.a. USAFCENT Commander include FAR CTIP clause 52.222-50 in all contracts, and update the clause, as needed, to reflect the current version of the clause.	Resolved, closed	Resolved, open
B.1.b. USAFCENT Commander ensure that QASPs are prepared for all contracts that require them and include appropriate methods for monitoring the contractor's performance regarding TIP.	Resolved, open	Resolved, open
B.1.c. USAFCENT Commander document in the contract file how monitoring for compliance with the CTIP clause will be accomplished, and by whom, if a contract does not require a QASP.	Resolved, open	Resolved, open

Table. Followup Status of the 2019 Recommendations (cont'd)

Recommendation	Status At The Start Of This Followup Evaluation	Status Of Recommendation Implementation
B.1.d. USAFCENT Commander verify that CORs accomplish and document proper monitoring of contractor compliance with DoD CTIP regulations.	Resolved, open	Resolved, open
B.1.e. USAFCENT Commander enter contractor past performance information, including CTIP violations, promptly into the CPARS.	Resolved, closed	Resolved, open
B.1.a. ACC-RI Commander include the FAR CTIP clause 52.222-50 in all contracts, and update the clause, as needed, to reflect the current version of the clause.	Resolved, open	Closed
B.1.b. ACC-RI Commander ensure that QASPs are prepared for all contracts that require them and include appropriate methods for monitoring the contractor's performance regarding TIP.	Resolved, open	Resolved, open
B.1.c. ACC-RI Commander document in the contract file how monitoring for compliance with the CTIP clause will be accomplished, and by whom, if a contract does not require a QASP.	Resolved, open	Closed
B.1.d. ACC-RI Commander verify that CORs accomplish and document proper monitoring of contractor compliance with DoD CTIP regulations.	Resolved, open	Closed
B.1.e. ACC-RI Commander enter contractor past performance information, including CTIP violations, promptly into the CPARS.	Resolved, open	Resolved, open
B.2. ACC-RI Executive Director require contracting officers to update surveillance and reporting documents for CORs to record that monitoring of the contractor's performance regarding TIP is accomplished.	Resolved, open	Closed
B.3. AAFES Chief Executive Officer update Exchange Policy 08-08, "Combating Trafficking in Persons," to provide guidance on specific responsibilities for monitoring contractor compliance with the CTIP provision, including responsibilities of personnel, clearly defined and required monitoring methods and frequency, records maintenance, and reporting requirements.	Closed	Closed
C.1. ACC-RI Executive Director establish a process or identify a resource for DoD contracting officials to obtain definitive guidance on Kuwaiti labor laws that apply to DoD contracts.	Unresolved, open	Closed
C.2. Deputy Assistant Secretary of the Air Force for Contracting establish a process or identify a resource for DoD contracting officials to obtain definitive guidance on Kuwaiti labor laws that apply to DoD contracts.	Unresolved, open	Closed

Table. Followup Status of the 2019 Recommendations (cont'd)

Recommendation	Status At The Start Of This Followup Evaluation	Status Of Recommendation Implementation
C.3. AAFES Chief Executive Officer establish a process or identify a resource for DoD contracting officials to obtain definitive guidance on Kuwaiti labor laws that apply to DoD contracts.	Unresolved, open	Closed
C.4. DoD General Counsel coordinate with the DoD organizations responsible for overseeing contracting in Kuwait, such as USCENTCOM, ACC-RI, Deputy Assistant Secretary of the Air Force for Contracting, and AAFES, to determine the appropriate DoD organization responsible for determining definitive guidance on Kuwaiti labor laws that apply to DoD contracts with performance in Kuwait, work to resolve disagreements among the organizations, and advise the Secretary of Defense and the Deputy Secretary of Defense on a comprehensive solution.	Unresolved, open	Closed
D.1. 408th Contract Support Brigade Commander request designated mission and permanent billets to support the Brigade's CTIP inspections team.	Resolved, open	Closed
D.2. USCENTCOM Commander create designated CTIP inspection teams and personnel billets to provide oversight of DoD contracts in countries for which it has command responsibility and that have potential TIP problems.	Unresolved, open	Closed

Appendix D

DoD General Counsel Response



GENERAL COUNSEL

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600

MAY 18 2020

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL

SUBJECT: Department of Defense General Counsel Response to Department of Defense Inspector General Report No. DODIG-2019-088, Evaluation of DoD Efforts to Combat Trafficking in Persons in Kuwait, Recommendation C.4

Following is my response to Recommendation C.4 of the subject report. I non-concur with the recommendation and provide the following management comments for your consideration.

Recommendation C.4:

We recommend that the General Counsel of the Department of Defense coordinate with the DoD organizations responsible for overseeing contracting in Kuwait, such as USCENTCOM, ACC-RI, Deputy Assistant Secretary (Contracting), and AAFES, to determine the appropriate DoD organization responsible for determining definitive guidance on Kuwaiti labor laws that apply to DoD contracts with performance in Kuwait, work to resolve disagreements among the organizations, and advise the Secretary of Defense and the Deputy Secretary of Defense on a comprehensive solution.

Response:

Non-concur. The appropriate process for providing legal guidance on contractor compliance with relevant labor laws is already in place. Assessing the content, scope, and applicability of labor laws under a particular contract is the responsibility of the legal office within the contracting activity's organization that supports the authorized contracting officer and that particular contract. This is true whether the question is compliance with U.S. federal labor laws (e.g., the Service Contract Act), or compliance with the labor laws of a foreign nation (e.g., Kuwaiti labor laws). The acquisition counsel advising the contracting officer for that contract is the legal counsel that is most familiar with the contract itself, the contractor and its course of performance, and the services being provided, thus is in the best position to advise on all aspects of contract compliance, to include consideration of any unique program guidelines and procedures issued by the relevant Geographic Combatant Command (GCC), as applicable.

Further, I do not agree that there is or should be a single DoD organization responsible for issuing DoD-wide "definitive" guidance on Kuwaiti labor laws. The General Counsel of the Department of Defense would have the authority to issue such guidance; however, the Department's acquisition system is inherently transaction-specific, and contract compliance issues are raised, assessed, and resolved at the contract level, including issues relating to interpretation and application of relevant labor laws. As a result, there is no single or centralized

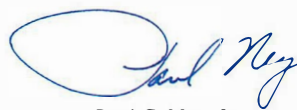


DoD General Counsel Response (cont'd)

DoD organization that is responsible for issuing DoD-wide guidance on how to interpret either U.S. or foreign labor laws, nor any other U.S. or foreign laws with which federal contractors may be required to comply (e.g., tax laws, environmental laws). Rather, local acquisition counsel advising the contracting officer is responsible for providing guidance on all issues relating to contractor compliance with external legal requirements if needed, both foreign and domestic.

If assistance is needed to provide such guidance, the legal office advising the contracting officer on acquisition matters may access foreign legal resources, including foreign local counsel, after such issues are identified and addressed within that organization's chain of command, whose lawyers can contact the Department of Justice's Office of Foreign Litigation for assistance.

If you require any additional information, please contact [REDACTED]
[REDACTED]

A handwritten signature in blue ink, appearing to read "Paul Ney", with a large, loopy initial "P" and "N".

Paul C. Ney, Jr.
General Counsel

Appendix E

OMB Memo



DEPUTY DIRECTOR
FOR MANAGEMENT

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 21, 2019

M-20-01

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Margaret M. Weichert
Deputy Director for Management

SUBJECT: Anti-Trafficking Risk Management Best Practices & Mitigation
Considerations

The purpose of this memorandum is to enhance the effectiveness of anti-trafficking requirements in Federal acquisition while helping contractors manage and reduce the burden associated with meeting these responsibilities. To achieve these dual goals, this memorandum describes anti-trafficking risk management best practices and mitigation considerations for acquisition officials and agency trafficking in persons experts to take into account when working with the agency's contractors to address their obligations.

Title XVII of the National Defense Authorization Act (NDAA) for FY 2013 and FAR Subpart 22.17 require Federal contractors to work proactively to prevent human trafficking in their supply chains and take remedial steps if such activities are identified. The Administration is committed to combatting human trafficking and ensuring the responsibilities of law and regulation are met effectively. Anti-trafficking advocacy organizations have urged the Senior Policy Operating Group of the President's Interagency Task Force to Monitor and Combat Trafficking in Persons ("the SPOG") to emphasize practices that have been shown to prevent or mitigate the effects of trafficking. Contractors have also sought additional information on how best to manage risk and minimize the compliance costs associated with the law and regulation, which include certifications, violation reporting, compliance plans, and other proactive measures.

Accordingly, this guidance:

- reviews the key responsibilities of FAR Subpart 22.17 ([Attachment A](#));
- highlights best practices that have been shown to contribute to effective deterrence ([Attachment B](#));
- describes mitigation actions that should be given appropriate consideration by contracting officers in evaluating the suitability of steps taken by a contractor that has reported a trafficking incident ([Attachment C](#)); and
- provides responses to a number of frequently asked questions posed by stakeholders following the publication of the final FAR rule ([Attachment D](#)).

OMB Memo (cont'd)

Efforts to combat trafficking in persons (TIP) are evolving as better practices and new technologies are identified. For this reason, the SPOG's Procurement and Supply Chains Committee intends to periodically review this guidance to determine whether updates may be required.

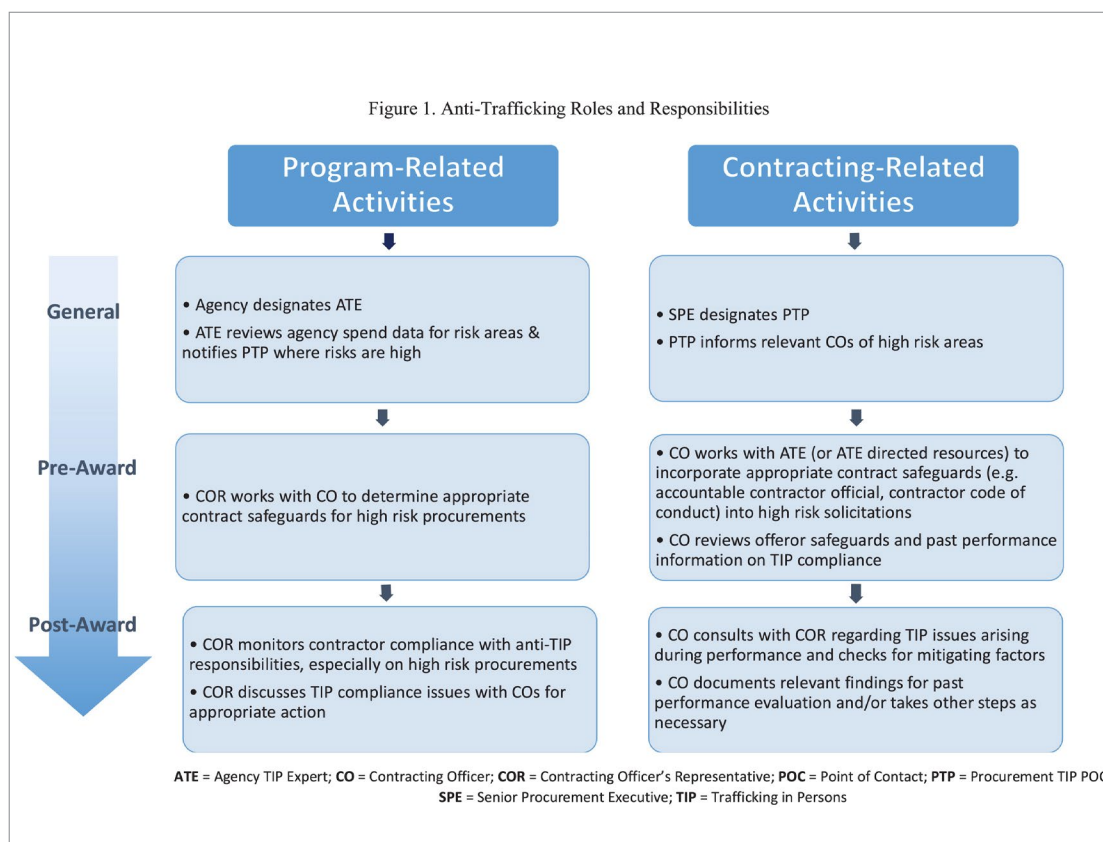
Finally, effective implementation of anti-trafficking requirements is a shared responsibility involving all parties to an acquisition, including the customer-program office, Contracting Officer (CO), Contracting Officer's Representative (COR), and the Senior Procurement Executive (SPE). To understand their TIP risk profiles, agencies should review their contract spending and ensure necessary safeguards and reviews are in place for high-risk areas. [Figure 1](#) breaks out the general risk management steps agencies should take, as well as specific steps and roles parties play in the acquisition lifecycle.

Accordingly, within 90 days of the issuance of this memorandum, Chief Financial Officers (CFO) Act agencies shall identify an agency TIP expert (ATE) and a procurement TIP POC (PTP) to facilitate collaboration among agency stakeholders on implementing anti-trafficking requirements in Federal acquisition. Agencies that are members of the SPOG may designate their SPOG representative as the ATE regarding the responsibilities in this memorandum. CFO Act agencies who are not members of the SPOG and lack TIP expertise should reach out to the Office of Federal Procurement Policy (OFPP) and the Department of State's Office to Monitor and Combat Trafficking in Persons to discuss the best manner of securing the requisite expertise. Names and contact information for the ATE and the PTP, and any requests for assistance, should be sent to [REDACTED]

Please share this guidance document widely across your acquisition workforce and with those responsible for anti-trafficking and related compliance efforts. Questions regarding this guidance document may be directed to your agency representative on th [REDACTED]
[REDACTED]

Attachments

OMB Memo (cont'd)



OMB Memo (cont'd)

Attachment A

Regulatory Revisions to FAR Subpart 22.17

FAR Subpart 22.17 sets forth regulatory guidance to implement the improved safeguards called for by Title XVII of the NDAA for FY 2013, *Ending Trafficking in Government Contracting*, and E.O. 13627, *Strengthening Protections Against Trafficking In Persons In Federal Contracts*. These safeguards include (i) a number of express prohibitions on certain types of trafficking-related activities (e.g., prohibition on charging employees recruitment fees; destroying, concealing, confiscating or otherwise denying access to identity or immigration documents) and (ii) risk management practices (e.g., an employee awareness program, a recruitment and wage plan, a housing plan).

Specifically, in March 2015, revisions to FAR subpart 22.17 and the corresponding clause at 52.222-50 relating to trafficking in persons in Federal contracts became effective for all new contract awards and for all new orders under existing Indefinite Delivery, Indefinite Quantity contracts. The revisions strengthen the longstanding ban against human trafficking by:

- i. Clearly identifying prohibited trafficking-related activities for all products and services. Previously, there was only a general prohibition during the period of performance of a contract on (1) engaging in human trafficking, (2) procuring commercial sex acts, and (3) using forced labor. Under the revisions to the FAR, the following trafficking-related activities are also expressly prohibited:
 - Destroying, concealing, confiscating, or otherwise denying access by an employee to his or her identity or immigration documents;
 - Charging employees recruitment fees;¹
 - Using misleading or fraudulent recruitment practices;
 - Providing or arranging housing that fails to meet the host country housing and safety standards, if housing is provided;
 - Failing to provide return transportation costs upon the end of employment, except in special cases;
 - Using recruiters that do not comply with local labor laws in the country where the recruitment takes place; and
 - Failing to provide an employment contract, recruitment agreement, or other required work document in writing, if required by law or contract.²

¹ A definition of "Recruitment Fees" was added to FAR 22.1702 (and relevant clauses) on January 22, 2019. See [83 FR 65466](#).

² FAR 52.222-50(b).

OMB Memo (cont'd)

ii. Imposing additional requirements on contractors regarding their own employees. Under the FAR revisions, contractors are required to:

- Inform their employees of prohibited activities and the consequences for violations;³ and
- Take appropriate action against employees, agents, or subcontractors that violate prohibitions;⁴

iii. Requiring contractors to notify contracting officers and the agency Inspector General of any credible information they receive from any sources alleging a violation of the anti-trafficking prohibitions, and any actions taken in response, and to provide reasonable access to facilities and staff to allow audits, investigations, and/or other actions to ascertain compliance;⁵

iv. Imposing a number of additional responsibilities for any portion of a contract or subcontract in excess of \$500,000 performed outside the United States that involves the acquisition of non-commercial off-the-shelf goods or the performance of services:

- Contractors must develop a compliance plan that includes:
 - (a) an employee awareness program about trafficking in persons policies, prohibited activities, and remedies when violations occur;
 - (b) a process for employees to report violations without fear of retaliation;
 - (c) a recruitment and wage plan that only permits the use of recruitment companies with trained employees, prohibits charging recruitment fees, and ensures that wages meet host-country requirements or explains any variance;
 - (d) a housing plan that ensures the housing meets host country housing and safety standards; and
 - (e) procedures to place the same requirements on subcontractors at any tier.⁶

The compliance plan must be appropriate for the nature and scope of activities they are performing as well as the size and complexity of their contracts.

- Contractors must certify before contract award and annually thereafter that they have developed and implemented compliance plans.⁷ A contractor must also include as part of the certification that it has conducted due diligence and that (1)

³ FAR 52.222-50(c)(1).

⁴ FAR 52.222-50(c)(2).

⁵ FAR 52.222-50(d) and (g).

⁶ FAR 52.222-50(h).

⁷ FAR 52.222-50(h).

OMB Memo (cont'd)

to the best of the contractor's knowledge or belief, neither it, nor its agents or subcontractors, has engaged in any of the prohibited practices, or (2) if any violations have been found, the contractor has taken the appropriate remedial and referral actions.

- Prime contractors must include the substance of clause 52.222-50 in all portions of a subcontracts in excess of \$500,000 performed outside the United States that involve the provision of acquisition of non-commercial off-the-shelf goods or the performance of services.

OMB Memo (cont'd)

Attachment B

Anti-Trafficking Risk Management Best Practices

The Procurement and Supply Chains Committee of the Senior Policy Operating Group of the President's Interagency Task Force to Monitor and Combat Trafficking in Persons ("the SPOG Committee") has identified a number of risk management best practices. Many of these practices are discussed in the Responsible Sourcing Tool website (responsiblesourcingtool.org), designed to assist Federal contractors, in identifying human trafficking or trafficking-related activities in their supply chains and developing effective management systems to prevent and mitigate these activities.⁸ Some of the practices focus on actions a contractor may take internally while others address actions a contractor may take to protect its supply chain.

Contracting officers will periodically need to evaluate the quality of a contractor's anti-trafficking efforts. For example, an evaluation may be required where (i) a contractor reports a human trafficking incident under an ongoing contract and the contracting officer is trying to determine if the contractor's actions were sufficient (as explained in Attachment C),⁹ (ii) the agency is planning an acquisition in an environment that is at high risk of trafficking (*e.g.*, the agency is aware that the work it is acquiring is at a heightened risk of trafficking and the agency must evaluate prospective offerors' safeguards), or (iii) the agency is evaluating past performance information on compliance for contracts where the risk of trafficking was significant. The best practices list, which describes safeguards that have been recognized by agency anti-trafficking experts, industry associations, and non-governmental organizations for their effectiveness in helping to prevent or mitigate trafficking risks, is intended to give contracting officers a fuller understanding of the types of actions that a contractor with an effective anti-trafficking program might take to meet its responsibilities under the FAR. The list is meant to be illustrative, not exhaustive, and is not intended to represent a compliance floor or to augment or otherwise change existing regulatory requirements.

⁸ The tool enables Federal contractors and other entities to visualize human trafficking risks by location, industry sector, and commodity. Additionally, it includes resources such as a model compliance plan, a sample code of conduct, a supplier/subcontractor self-assessment questionnaire, and criteria to select and monitor labor recruiters. Another resource is a NGO research report, funded by the Department of State, titled "[Strengthening Protections Against Trafficking Persons in Federal and Corporate Supply Chains](#)" which covers commodities and industry sectors at increased risk for trafficking or trafficking-related activities.

⁹ FAR 52.222-50(f).

OMB Memo (cont'd)

1. Contractor's internal steps

<i>Accountable official</i>	
The FAR Requires:	The FAR does not require an accountable official for trafficking issues.
Best Practice:	To create appropriate accountability and to highlight the importance of anti-trafficking efforts, the contractor has identified an internal position and individual to be responsible for compliance plan implementation (if a plan is required, or if the contractor chooses to create a compliance plan), including risk prioritization. The designated position has the necessary authority to ensure compliance at all levels of the company and throughout the supply chain, and should be able to ensure the accuracy of its certification to the government. ¹⁰

<i>Code of conduct and policies around trafficking</i>	
The FAR Requires:	The FAR does not require a code of conduct and policies around trafficking.
Best Practice:	The contractor has reviewed its internal practices, including its recruitment processes, ¹¹ for preventing any fraudulent recruitment or coercive treatment of workers from occurring at any level of the organization. As part of this review, the contractor developed or adopted an appropriate code of conduct and/or corporate policies on trafficking in persons, covering such issues as: hiring recruiters and conducting recruitment, disciplinary processes for employees that commit violations, otherwise ensuring that no prohibited activity takes place, and complying with host country employment law and housing standards (if housing is provided). The code of conduct is revisited on a set schedule, with senior-level approval, and if possible, with external validation.

<i>Regular review of mechanisms to deter trafficking</i>	
The FAR Requires:	A compliance plan when the value of a contract's overseas ¹² work is expected to exceed \$500,000 for services or non-Commercially Available Off-the-Shelf (COTS) supplies. The plan is appropriate to the size and complexity of the contract and to the nature and scope of the activities to be performed.
Best Practice:	The contractor continuously reviews the plan (recognizing it may be tailored for many contracts over a period of time) and makes revisions and updates whenever necessary, including to employee awareness and reporting programs, based on best practices and lessons learned. Revisions are reviewed at a senior level and, if possible, with external validation.

¹⁰ As specified in FAR 52.222-50(h)(5) and 52.222-56. For additional information see Attachment A.

¹¹ [ResponsibleSourcingTool.org](https://www.responsibleSourcingTool.org) contains helpful guidance on due diligence when screening recruiters.

¹² Supplies acquired outside the United States or services to be performed outside the United States.

OMB Memo (cont'd)

2. Contractor's external steps

<i>Impactful due diligence to maximize effectiveness</i>	
The FAR Requires:	That contractors certify that they have conducted due diligence and found no violations or taken appropriate remedial and referral actions with respect to with their agents, subcontractors, or subcontractor agents when the value of overseas work is expected to exceed \$500,000 for services or non-COTS supplies.
Best Practice:	The contractor has taken steps to prioritize risk assessment. High-risk portions of the contractor's supply chain have been identified (including contractors and/or subcontractors who use labor agents/recruiters), or the contractor has plans in place to do so (e.g., through third-party audits, external consultants or experts, or other mechanisms). ¹³ The contractor also works with suppliers to implement information reporting processes for high-risk sites, such as through self-audit reports and supplier-conducted employee surveys.

<i>Corrective actions</i>	
The FAR Requires:	That contractors takes appropriate remedial action to the extent required when a trafficking violation is identified.
Best Practice:	The contractor has developed targeted action plans that include industry and other broadly demonstrated best practices for addressing violations that are identified in its supply chain. For example, where termination of a contract is necessary, the placement and treatment of its workers is considered and addressed. In addition, it monitors progress through contractor follow-up audits for sites identified as being out of compliance (e.g. ensures recruitment fees have been refunded to workers; employees have been given secure accessible storage solutions for their identity documents).

<i>Engagement with subcontractors</i>	
The FAR Requires:	A flowdown of clause 52.222-50 to subcontractors. The clause does not require a code of conduct and only requires an awareness program as a component of a compliance plan when the value of the overseas work is expected to exceed \$500,000 for services or non-COTS supplies
Best Practice:	The contractor has ensured its subcontractors have their own codes of conduct or flow down the code developed/adopted by the prime contractor. These are accompanied by direct engagement with subcontractors to ensure that they fully understand their obligations.

¹³ Tools that could be used in such risk assessments include the U.S. Department of Labor's [List of Goods Produced by Child Labor or Forced Labor](#) and the U.S. Department of State's annual [Trafficking in Persons \(TIP\) Report](#).

OMB Memo (cont'd)

<i>Subcontractor compliance reviews</i>	
The FAR Requires:	The FAR does not require compliance reviews.
Best Practice:	The contractor has implemented appropriate auditing processes to assess subcontractor compliance with its code of conduct/policy, particularly for suppliers identified as high risk, including unannounced audits as appropriate. These audits include, among other considerations, whether its subcontractors: (i) are directly hiring, (ii) are using licensed recruiters, or using additional scrutiny in countries where there are known trafficking risks and/or recruiters are unregulated, (iii) have effective reporting and whistleblowing mechanisms, and (iv) have copies of their signed contracts in a language the worker understands. Audit processes are validated externally.

OMB Memo (cont'd)

Attachment C

Mitigating Factors

If trafficking issues arise during the performance of a contract, FAR 52.222-50(f) instructs contracting officers to take into account mitigating factors in determining remedies. Mitigating factors are designed to strike a balance between the effectiveness and reasonableness of the contractor's actions. This balanced approach should help ensure achievement of the desired goals of the regulation without imposing unmanageable regulatory burdens or expectations on the contract community.

Accordingly, in reviewing whether a contractor has complied with its anti-trafficking responsibilities, the contracting agency should consider the mitigating factors described in the FAR¹⁴ as well as whether the contractor adopted any of the best practices described in Attachment B or other suitable practices.

In addition if a trafficking violation has been reported, the contracting officer should consider:

- whether the contractor:
 - became aware of the violation because of an effective monitoring program and/or reporting mechanism;
 - had risk mitigation tools in place at the time an incident arose, such as a current compliance plan or awareness plan that the contractor was following at the time of the incident,¹⁵ or other risk-mitigation best practices;
 - notified to the U.S. government immediately of any violations;¹⁶
 - abated a violation when directed to do so by the contracting officer;
 - cooperated with investigations;
 - is a new or experienced Federal contractor; and
 - has a particularly lengthy or complex supply chain.
- whether the reported information involves:
 - an isolated incident or is part of a systemic pattern of violations; or
 - an incident that is minor in nature or is significant and shows a basic disregard for anti-trafficking requirements.

¹⁴ See FAR 52.222-50(f).

¹⁵ Entities need not develop a plan specifically for each contract with overseas work that meets the threshold, as long as it otherwise has a plan in place that is suitable to address the nature and scope of activities to be performed and the size and complexity of its contract work.

¹⁶ See FAR 52.222-50(d).

OMB Memo (cont'd)

Attachment D

Working with the Regulatory Changes to FAR Subpart 22.17 Combating Trafficking in Persons

Questions and Answers

The following questions and answers have been developed in response to issues that were identified during outreach on the final FAR rule to implement E.O. 13627 and Title XVII of the NDAA for FY 2013, *Ending Trafficking in Government Contracting*.

Contractor risk mitigation

1. When considering a contractor's efforts to meet its anti-trafficking responsibilities, what considerations will contracting officers take into account, especially for contractors with complex and multi-tiered supply chains?

The FAR rule lays out the requirements, while the guidance developed by the SPOG Procurement and Supply Chains Committee lays out mitigating and aggravating factors that will be carefully considered in determining the adequacy of the contractor's actions should violations be identified. These factors include:

- whether the contractor:
 - worked with subcontractor to appropriately remediate identified issues;
 - took remedial steps on its own (such as to provide reparation to victims where the company has caused or contributed to the impacts) or abated a violation when directed to do so by the contracting officer;
 - became aware of the violation because of an effective monitoring program and/or reporting mechanism had risk mitigation tools in place at the time an incident arose, such as a current compliance plan or awareness plan and was following the plan at the time of the incident;¹⁷
 - notified to the U.S. government immediately of any incidents;¹⁸
 - abated a violation when directed to do so by the contracting officer;
 - cooperated with investigations;
 - took logically sequenced and managed steps to increase its understanding of the supply chain; and
 - is a new or experienced Federal contractor.

¹⁷ Entities need not develop a plan specifically for each contract with overseas work that meets the threshold, as long as it otherwise has a plan in place that is suitable to address the nature and scope of activities to be performed and the size and complexity of its contract work.

¹⁸ See FAR 52.222-50(d).

OMB Memo (cont'd)

- whether a reported violation:
 - is an isolated incident or part of a systemic pattern; or
 - is minor in nature or is significant and shows a basic disregard for anti-trafficking requirements.

2. Isn't a contractor better off having a less robust plan and accompanying management structure to reduce its exposure to liability?

No. A contractor that is working to implement a compliance plan and awareness program, and that identifies violations as a result of such actions, will be viewed more favorably when mitigating factors are considered than will a contractor that fails to identify these violations because it has made no meaningful effort to implement internal controls that could enable it to uncover trafficking, and has instead either negligently failed to implement controls or made a management decision to treat human trafficking as a cost of doing business.

3. What steps should a contractor take if it does not perform any work overseas?

While contractors that only work domestically are not required to develop or submit a compliance plan, they are still subject to the rule's prohibitions and many of its requirements. As such, domestic contractors are strongly encouraged to develop procedures and controls consistent with the best practices identified in Attachment B, which will help ensure that they are meeting their obligations under the requirements, and may act as a mitigating factor if a violation occurs.

Other issues

4. Are contractors required to furnish copies of their compliance plans to agencies?

In accordance with FAR 52.220-50(h), a contractor must be prepared to furnish a copy of its compliance plan to the contracting officer. This may be required when there is an incident or in some cases, at the agency's discretion, where an acquisition involves high risk and the agency wants to evaluate the contractor's risk mitigation.

5. When should contracting officers expect to be informed of violations?

Contractors are required to report "credible information" that a violation of the prohibitions outlined in FAR 52.222-50(b) has occurred, along with any actions taken against the employee, subcontractor, subcontractor employee, or its agent to remedy the violation. The preamble to the FAR rule notes that the rule does not define the term "credible information" but explains that the term refers to believable information received from any source. Agencies should encourage their contractors to remediate issues that fall outside the scope of FAR 52.222-50(b), and as circumstances warrant, to report to law enforcement and/or call an appropriate local NGO or hotline with any information about the violation.

OMB Memo (cont'd)

6. What steps are taken after a contracting officer receives credible information?

As set out in FAR 52-222.50, when a contracting officer receives credible information that the contractor or its agents or employees have violated the FAR trafficking requirements, the contracting officer must promptly notify the agency Inspector General, the agency debarring and suspending official, and law enforcement officials if appropriate, and can direct the contractor to take specific steps to abate the violation. After receipt of a report from the cognizant agency Inspector General, the authorized agency official conducts an administrative hearing and the contractor has the opportunity to respond to the allegations.

If there is a determination by the Inspector General that allegations of a trafficking in persons violation are substantiated or if the contracting officer finds that the contractor has failed to comply with the procedural requirements in the regulations such as notification, the contracting officer will determine if a contract remedy is appropriate, taking into account the appropriate mitigating and aggravating factors set forth in the FAR and the Anti-Trafficking Risk Management Best Practices guidance developed by the SPOG Procurement and Supply Chains Committee.¹⁹

7. How does the \$500,000 dollar ‘flowdown’ threshold operate in practice?

The contracting officer is responsible for ensuring that the certification clause is included in contracts where the value of the overseas work is expected to exceed \$500,000 for services or non-COTS supplies. The contractor is responsible for flowing down the requirements to its subcontractors and suppliers when the portion of work to be performed overseas exceeds \$500,000 for services or non-COTS supplies.

8. How does the “portions of work” qualifier affect contractor obligations to develop a compliance plan and to certify?

Under FAR 52.222-56(b)—

The apparent successful Offeror shall submit, prior to award, a certification, as specified in paragraph (c) of this provision for the portion (if any) of the contract that—

¹⁹ Remedies may include: (1) Requiring the Contractor to remove a Contractor employee or employees from the performance of the contract; (2) Requiring the Contractor to terminate a subcontract; (3) Suspension of contract payments until the Contractor has taken appropriate remedial action; (4) Loss of award fee, consistent with the award fee plan, for the performance period in which the government determined Contractor non-compliance; (5) Declining to exercise available options under the contract; (6) Termination of the contract for default or cause, in accordance with the termination clause of the contract; or (7) Suspension or debarment. In addition, other remedies available to the government may be exercised.

OMB Memo (cont'd)

(1) Is for supplies, other than commercially available off-the-shelf items, to be acquired outside the United States, or services to be performed outside the United States; and (2) Has an estimated value that exceeds \$500,000.

Under FAR 52.222-50(h)(1)—

[The compliance plan requirements apply] to any portion of the contract that—

(1) Is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and (2) Has an estimated value that exceeds \$500,000.

FAR 52.222-50(h)(2) also ties the nature of the compliance plan to the size and complexity of the particular contract, and to the nature and scope of the activities to be performed for the government. The certification and compliance plan requirements are therefore limited to just the portion of work performed overseas. The regulations do not obligate the contractor to develop a compliance plan for the entire company or to certify that the plan has such a broad scope. However, it may be difficult or impractical for contractors with multiple government contracts to develop multiple plans. Contractors are therefore encouraged to develop corporate-wide compliance plans, which may be further tailored for the individual contract.

- 9. What if a contractor identifies a reportable incident in its supply chains that affects multiple contracts (e.g., a component part manufacturer was using forced labor, and the contractor used the component part in a variety of goods sold to the government)? Does the contractor have a responsibility to trace the component back to every end-product sold to the government, and to notify the individual agency contracting officers who procured that part?**

Under the circumstance where the contractor believes that a violation has occurred which affects multiple contracts, and it is impractical to trace the violation back to a particular contract, the contractor must inform the agency for the contract with the highest dollar value. See FAR 52.222-50(d)(2).

- 10. In cases where contractors have multiple contracts with the government, must the contractor provide individual certifications to each contracting officer on a transactional basis?**

Yes. As the certification is directly related to the particular contract being performed, contractors must provide individual certifications on a per-transaction basis.

Appendix F

ACC-RI CTIP Kuwait Active Contracts

Row	Contract Number
1	W52P1J18C0001
2	GS35F0199Y
3	W52P1J10C0062
4	W52P1J13C0017
5	W52P1J16C0046
6	W52P1J18D0004
7	W52P1J18D0005
8	W52P1J-18-D-0006
9	W52P1J-18-D-0007
10	W52P1J13D0086
11	W52P1J14D0100
12	W52P1J15C0031
13	W52P1J15C0061
14	W52P1J15D0004
15	W52P1J17C0017
16	W52P1J19A0001
17	W52P1J19A0002
18	W52P1J19A0003
19	W52P1J19A0004
20	W52P1719A0005
21	W52P1J19A0006
22	W52P1J19A0007
23	W52P1J19A0008
24	W52P1J19A0009
25	W52P1J07D0009
26	W52P1J16D0121
27	W52P1J18C0002
28	W52P1J18C0025
29	W52P1J12G0028
30	W911S014C0004

Appendix G

Air Force Contracts

Row	Contract Number
1	FA570320P0228
2	FA570317C0011
3	FA570320F0250
4	FA570320F0221
5	FA570316C0003
6	FA570320P0230
7	FA570319F0074
8	FA570317C0014
9	FA570318C0005
10	FA570318C0022
11	FA570319P0022
12	FA570319C0024
13	FA570320C0005
14	FA570320F0231
15	FA570321F0012
16	FA570321C0011

Management Comments

U.S. Army Contracting Command – Rock Island



UNCLASSIFIED

DEPARTMENT OF THE ARMY
ARMY CONTRACTING COMMAND – ROCK ISLAND
3055 Rodman Avenue
ROCK ISLAND, IL 61299-8000

CCRI

January 20, 2022

MEMORANDUM FOR

Inspector General, Department of Defense, 4800 Mark Center Drive, Alexandria, VA
22350-1500

SUBJECT: Follow-up Evaluation of Report No. DODIG-2019-088, "Evaluation of DoD Efforts to Combat Trafficking in Persons in Kuwait", June 11, 2019, Project No. D2020-DEV0PA-0183.000 with ACC-RI response.

1. This memorandum establishes the results of the follow-up inquiry conducted by Army Contracting Command-Rock Island, in response to the subject of additional information requested by AMC Office of the Inspector General, referral dated December 08, 2021, Tasker HQAMC-211208-E536.

a. Recommendation B.1.b, was open based on information provided by ACC-RI. We recommended that the ACC-RI Executive Director ensure that contracting officers ensure that QASPs are prepared for all contracts that require them and include appropriate methods for monitoring the contractor's performance regarding TIP. After reviewing information and documentation provided by ACC-RI and subordinate commands, we found that of the 30 contracts reviewed, 4 contracts had QASPs, and 2 of the 4 QASPs had direction to monitor for TIP. Therefore, this recommendation remains open.

Response, ACC-RI agrees with the DODIG recommendation. ACC-RI took the recommended action to ensure Quality Assurance Surveillance Plans were updated to include the COR CTIP Checklists. For the 30 contracts identified, the attached spreadsheet prepared in 2019 details the completion date for which the QASP was updated, in column Z. Each QASP was updated in SPM within PLEE, which is the system of record per AFARS 5104.802(f)(i). Access to the Army System of Record is required should DODIG seek verification of completion of the QASP, in accordance with ACC-RI's response.

b. Recommendation B.1.e, was open based on information provided by ACC-RI. We recommended that the ACC-RI Executive Director ensure that contracting officers enter contractor past performance information, including CTIP violations, promptly into CPARS. After the DoD OIG follow-up review team evaluated information related to the 30 contracts in the CPARS database, there was no CTIP-related information, either positive or negative as required by FAR Subpart 42-15, nor did we find that each of the

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U.S. Army Contracting Command – Rock Island (cont'd)

UNCLASSIFIED

SUBJECT: Follow-up Evaluation of Report No. DODIG-2019-088

contracts had a CTIP review, evaluation, or documentation notes section in the CPARS database. Therefore, this recommendation remains open.

Response, ACC-RI agrees with the DODIG Recommendation. An ACC-RI Memorandum of Record was released to the contracting staff on August 13, 2019 instructing that all Contracting Officers shall also ensure documentation of CTIP violations shall be included in all Contractor Performance Assessment Reports evaluations (documentation attached). Instruction was provided to each respective Contract Specialist of the contracts listed on the CPARS listing to validate that CTIP response information was included in the narrative. Where there the language is absent from the CPARS, action will be taken on the next evaluation period in the system, where applicable. The validation of information shall be complete 2nd QTR FY22, NLT March 31, 2022. Validation of the CTIP information into CPARS will be made by the Director of Contracting with records provided to the DODIG upon completion to close out the action.

c. Recommendation C.1, We recommend that the Commander of the Army Contracting Command-Rock Island provide verification that the contracts we reviewed at Appendix F during the course of this follow-up evaluation contain updated CTIP clause information, specifically with regard to the Alternate I CTIP clause, and inclusion of specific Kuwaiti labor law requirements to allow for tailored TIP monitoring.

Response, ACC-RI agrees with the DODIG Recommendation with regard to the application and inclusion of the FAR Clause. Per our response to the original audit findings and recommendation, bilateral modifications were executed for the contracts identified. The modifications contain the required FAR citations. The date of the bilateral modifications are found in Column Y of the attached spreadsheet and can be verified in PCF. Kuwaiti Labor Law requirements are not spelled out in the modification. Labor laws can and do change and it is incumbent upon the contractors to hire the appropriate staff to monitor and comply with all applicable labor laws. Each contract with performance overseas requires compliance with applicable Host Nation Laws and Regulations as stated in the contract award, meeting the intent of this recommendation. Contracting Officers are not experts in Labor Laws and require Contractors to comply through their engagement with the host nation. When issues do arise that require interpretation, coordination is made through legal channels, which was explained by the ACC-RI Executive Director in the original response to the audit findings.

2. The point of contact for this action is [REDACTED]

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CARRJAY.THOMAS
AS [REDACTED]
Date: 2022.01.20 15:26:54
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Jay T. Carr
Executive Director

U.S. Air Forces Central



DEPARTMENT OF THE AIR FORCE
NINTH AIR FORCE (AIR FORCES CENTRAL)
SHAW AIR FORCE BASE SOUTH CAROLINA 29152-5029

11 February 2022

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL (DoDIG)

FROM: 9 AF (AFCENT)/A1
524 Shaw Drive
Shaw AFB, SC 29152-5029

SUBJECT: AFCENT Comments on Drafts DoD IG Follow-up Report *DoD Efforts to Combat Trafficking in Persons (CTIP) in Kuwait*

References: (a) Inspector General U.S. Department of Defense Project No. D2020-DEV0PA-0183.000

1. This memorandum serves as an USAFCENT official concurrence to the draft DOD IG report No. D2020-DEV0PA-0183.000, *DoD Efforts to Combat Trafficking in Persons (CTIP) in Kuwait*. Specific management comments are attached.

2. If you have any questions or concerns with our comments, please contact [REDACTED]

FLOYD.DERRICKJ
J. [REDACTED]
DERRICK J. FLOYD, Colonel, USAF
Director, Manpower, Personnel & Services

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Date: 2022.02.11 15:01:43 -05'00'

Attachment:

1. Management Comments

"WIN • POSTURE • DETER • PARTNERSHIPS • EQUALITY"

U.S. Air Forces Central (cont'd)

DoD IG Follow-up Report

DoD Efforts to Combat Trafficking in Persons (CTIP) in Kuwait

(Project No. D2020-DEV0PA-0183.000)

RECOMMENDATION A.2: “DoD OIG recommends that the Commander of U.S. Air Forces Central Command develop and implement a combating trafficking in persons program, as required by Central Command Regulation 570-4.”

FOLLOW-UP A.2: The Air Force did not strengthen existing policies, such as the USAFCENT Contracting Policy and Guidance Handbook, to support implementing and developing targeted CTIP guidance that addresses its CTIP program, nor did the Air Force show how its CTIP program is tailored to the Kuwaiti operational environment. For example, USAFCENT still did not ensure that all contracts contained the most current Alternate I CTIP clause that provides specific Kuwaiti labor law information to assist with CTIP-related contract surveillance. Also, documentation provided did not contain any information on the application of the CTIP FAR clause, Alternate I CTIP FAR clause, CTIP-related contract surveillance monitoring (to include QASPs), and CTIP-related entries in CPARS. Therefore, Recommendation A.2 remains resolved and open.

USAFCENT Response: ‘Agree’ AFCENT/A7K will update the USAFCENT Contracting Policy and Guidance (P&G) Handbook to address CTIP guidance, however there will be no specific language in the P&G Handbook specifically for Kuwait as the guidance is for the entire AFCENT theater. AFCENT will direct the Expeditionary Contracting Squadron coordinate with Legal personnel onsite to incorporate information specific to Kuwaiti labor law requirements into Alternate I CTIP clauses. CTIP-related contract surveillance monitoring information will be provided to CORs as an update to the QASPs. **(Estimated Completion, 30 September 2022)**

RECOMMENDATION B.1.a: USAFCENT stated that they would inform all of its Expeditionary Contracting Squadrons (ECONS) leaders of the requirement to include the Federal Acquisition Regulation (FAR) Combatting Trafficking in Persons (CTIP) clause in all contracts and then reinforce this requirement during the monthly USAFCENT teleconference for at least 3 months. The DoD OIG recommends that USAFCENT provide verification that they issued a written document reinforcing the requirement to include the FAR CTIP clause in all contracts.

FOLLOW-UP to B.1.a: However, during the DoD OIG follow-up review team’s review of the 16 contracts, we found that 11 of 16 contracts reviewed contained the current version of FAR clause 52.222-50, and the remaining 5 contracts did not contain a CTIP clause. None of the 16 contracts contained the Alternate I CTIP FAR clause, which is needed for contracting officers and their staffs to get the level of specificity necessary to surveil contracts for CTIP prohibited activities and violations, especially as they relate to Kuwaiti labor laws. Also, only 1 of 16 contracts reviewed directed monitoring by the contracting officer and their staff for contractor

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compliance of CTIP. Therefore, this recommendation should not have been closed and remains open.

USAFCENT Response: 'Agree' The AFCENT Policy and Guidance Handbook will be updated to include more comprehensive CTIP information to inform Contingency Contracting officers what is required per contract in regards to CTIP. Additionally, CCO CTIP responsibilities will continue to be briefed at the ECONS/CC Annual Orientation Course at AFCENT. The 386 ECONS will review the contracts listed in Appendix G and modify them if necessary to ensure they contain both the CTIP clause information and Alternate 1 CTIP Clause IAW the FAR and DFARS. The ECONS will coordinate with Legal personnel onsite to incorporate information specific to Kuwaiti labor law requirements. Modifications will be completed to incorporate these clauses as applicable. **(Estimated Completion, 30 September 2022)**

RECOMMENDATION B.1.b: USAFCENT stated that they would brief all ECONS leaders to ensure that proper contract documentation and reviews are conducted prior to contract award. USAFCENT was to conduct initial training in February 2019 of the revamped quality assurance program, including CTIP in tracking tools and templates. Verify that USAFCENT revamped its quality assurance program and included CTIP in its tracking tools and templates. Provide documentation to show that the quality assurance program has been revamped (such as policy/guidance and evidence of your briefing/Feb 2019 training on the revamped program) and a copy of the tracking tool and templates showing the CTIP included.

FOLLOW-UP B.1.b: The DoD OIG follow-up review team examined the meeting minutes referenced in USAFCENT Recommendation B.1.a above and did not identify any information about USAFCENT's revamped QA program, the preparation of the QASP, and the inclusion of CTIP-related monitoring or reporting in all contracts. However, the USAFCENT QAPC training slides contained information about QASP development and the QAPC's responsibility for ensuring the QASP includes CTIP-related information. The training also states that the QAPC will support the development of COR training on the QASP and surveillance plan requirements. Furthermore, the USAFCENT provided the COR tracking tool and the checklist used by the USAFCENT to conduct Staff Education Visits to review contract files. Based on the DoD OIG follow-up review team's examination, the tracking tools show that CTIP training requirements were incorporated into the COR tracking tool and the checklist used to ensure the CTIP clause was included in all contracts. Based on the QAPC training slides, the QAPC has an important role in USAFCENT efforts to revamp its QA program. The QAPC is supposed to ensure that QASPs are prepared for all contracts and contain information about CTIP-related monitoring and reporting.

During the course of this follow-up evaluation, we requested QASPs from USAFCENT that were aligned with the list of 16 contracts at Appendix G. We were provided five QASPs; however, only two of the five QASPs matched 2 of the contracts on the list of 16 contracts, and only one of the two contracts from the list of 16 contracts with QASPs contained the mandatory CTIP clause. Also, only one of the two QASPs the DoD OIG follow-up review team examined

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contained monitoring directions or methods regarding CTIP. Therefore, we determined that this recommendation should not have been closed and is open.

USAFCENT Response: The 386 ECONS will review the contracts listed in Appendix G and modify them if necessary to ensure they contain both the CTIP clause information and Alternate 1 CTIP Clause IAW the FAR and DFARS. The ECONS will coordinate with Legal personnel onsite to incorporate information specific to Kuwaiti labor law requirements. Modifications will be completed to incorporate these clauses as applicable. **(Estimated Completion, 30 September 2022)**

RECOMMENDATION B.1.c: USAFCENT stated that they would reinforce CTIP monitoring responsibilities during annual ECONS commanders' orientation and quarterly training. Once we verify that USAFCENT updated training materials that reinforce CTIP monitoring responsibilities during annual ECONS commanders' orientation and quarterly training, this finding can be closed.

FOLLOW-UP to B.1.c: The USAFCENT provided the DoD OIG follow-up review team a copy of the ECONS orientation briefing, which contained a general information slide on CTIP but it did not reinforce CTIP monitoring responsibilities with regard to operating in the Kuwait operational environment and monitoring for Kuwait labor law violations.

The Staff Education Visit Checklist was also provided to support the closure of this recommendation. However, based on the DoD OIG follow-up review team's review of the Checklist, we determined that although the Staff Education Visit Checklist contains information showing that USAFCENT reviews contract files for inclusion of the CTIP clause and to determine if the COR met CTIP training requirements, it does not address whether the contract files included a QASP and the monitoring of contractor compliance with CTIP requirements.

The only training we reviewed that included detailed CTIP monitoring was the QAPC training slides. Again, although the USAFCENT incorporated CTIP-related information in the USAFCENT QAPC training slides and provided the training slides to all ECONS and alternate QAPCs to provide the training to their respective ECONS, the intent of this recommendation was still not met. The intent of this recommendation was not met because the training still does not discuss documenting how monitoring for compliance with the CTIP clause will be accomplished, and by whom, if a contract does not require a QASP.

Also, only 1 of the 16 contracts listed at Appendix G that was reviewed by the DoD OIG follow-up review team directed contracting officer monitoring for contractor compliance of CTIP. In addition, the DoD OIG follow-up review team highlighted in recommendation B.1.b that only 1 of the 2 QASPs reviewed contained monitoring directions or methods regarding CTIP and matched the 16 contracts listed at Appendix G. Therefore, this recommendation remains open.

USAFCENT Response: 'Agree with Intent' 9 AF (USAFCENT)/A7K Disagrees that the individual recommendation corrective action was not met. The ECONS orientation briefing did not maintain CTIP monitoring responsibilities specific to operating in Kuwait as the briefing

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audience includes 4 other Expeditionary Contracting Commanders located at other countries in the AFCENT AOR and covered general CTIP responsibilities as the recommendation implied. The original approved recommendation did not indicate any considerations for the monitoring of Kuwait labor law violations and therefore should not be addressed in this specific Recommendation. However, the Staff Education Visit Checklist will be modified to include both a review of the QASP to specifically obtain whether appropriate the monitoring of contractor compliance with CTIP requirements is established.

The clause 52.222-50 titled, "Combating Trafficking in Persons" dictates that a compliance plan is required for supplies, other than Commercially Available off-the-shelf items...or services performed outside of the United States when the contract is estimated or valued over \$550K. The clause further indicates at FAR 52.222-50 (h)(3) the minimum requirements for the compliance plan. The AFCENT/A7K Policy and Guidance is being updated to indicate monitoring requirements for Contracting Officers to relay to CORs even if a contract does not require a QASP

The 386 ECONS will review the contracts listed in Appendix G and modify them if necessary to ensure they contain both the CTIP clause information and Alternate 1 CTIP Clause IAW the FAR and DFARS. The ECONS will coordinate with Legal personnel onsite to incorporate information specific to Kuwaiti labor law requirements. Modifications will be completed to incorporate these clauses as applicable. **(Estimated Completion, 30 September 2022)**

RECOMMENDATION B.1.d: USAFCENT stated that they would review contract files for compliance with the FAR CTIP clause during annual SEVs as well as during quarterly training. Once we verify that USAFCENT issued guidance directing the review of contract files for compliance with CTIP regulations during staff education visits and quarterly training, this finding can be closed.

FOLLOW-UP to B.1.d: We reviewed the Staff Education Visit Checklist and confirmed that the Staff Education Visit Checklist does not verify whether QASPs contain information about CTIP-related monitoring. The Staff Education Visit Checklist neither illustrates how contracting officers are verifying that CORs accomplish and document proper monitoring of contractor compliance with DoD CTIP regulations nor does it show evidence of guidance directing the review of contract files for compliance with CTIP regulations. Also, the QAPC training slides do not explicitly direct contracting officers to verify that CORs accomplish and document proper monitoring of contractor compliance with DoD CTIP regulations.

Also, because only 1 of 16 contracts reviewed directed monitoring for contractor compliance of CTIP, and 1 of the 2 QASPs contained monitoring directions or methods regarding CTIP, we determined that contracting officers were not verifying that CORs accomplished and documented proper monitoring of contractor compliance with DoD CTIP regulations. Therefore, this recommendation remains open.

USAFCENT Response: 'Agree' The AFCENT Policy and Guidance Handbook will be updated to include more comprehensive CTIP information to inform Contingency Contracting officers

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what is required per contract in regards to CTIP. The 386 ECONS will review the contracts listed in Appendix G and modify them if necessary to ensure they contain both the CTIP clause information and Alternate 1 CTIP Clause IAW the FAR and DFARS. The ECONS will coordinate with Legal personnel onsite to incorporate information specific to Kuwaiti labor law requirements. Modifications will be completed to incorporate these clauses as applicable. Contracting Officers are responsible for ensuring applicable contractors certify annually that they maintain a compliance plan IAW 52.222-50. The SEV Checklist will be updated help staff verify whether CORs monitored of contractor compliance with CTIP. **(Estimated Completion, 30 September 2022)**

RECOMMENDATION B.1.e: USAFCENT stated that they would direct all ECONS to ensure that each contract in CPARS has a CTIP review, evaluation, and documentation notes section. Once we verify that USAFCENT issued direction (via written policy/guidance or its equivalent) to all ECONS to ensure that each contract in CPARS has a CTIP review, evaluation, and documentation notes section, this finding can be closed.

FOLLOW-UP to B.1.e: The DoD OIG follow-up review team examined USAFCENT's QAPC briefing slides and determined that one sentence on one slide included language for contracting personnel to ensure that each contractor performance assessment report entailed a CTIP review, evaluation, and documentation in the notes section. However, because the slide is not policy, we do not view this briefing slide as a formal direction for ECONS to ensure each contract in CPARS has a CTIP review, evaluation, and documentation in the notes section. Because source selection officials rely on clear and timely evaluations of contractor performance to make informed business decisions when awarding government contracts and orders, information entered into CPARS, both positive and negative, is critical to ensuring that the Federal Government only does business with companies that provide quality products and services in support of the agency's missions. After the DoD OIG follow-up review team examined the past performance data in the CPARS database for each of the 16 contracts, we found no evidence that a CTIP review had been conducted or that the results of that review had been documented in CPARS. Therefore, the DoD OIG follow-up review team determined that this recommendation should not have been closed and is open.

USAFCENT Response: 'Agree' AFCENT/A7K will update the Policy and Guidance Handbook to include CTIP information, specifically CPARS requirements for applicable contracts. The 386 ECONS will review the contracts listed in Appendix G and modify them to make sure they contain both the CTIP clause information and Alternate 1 CTIP Clause IAW the FAR and DFARS. The ECONS will coordinate with Legal personnel onsite to incorporate information specific to Kuwaiti labor law requirements. **(Estimated Completion, 30 September 2022)**

RECOMMENDATION C.2: We recommend that the Commander of U.S. Air Forces Central provide verification that the contracts we reviewed at Appendix G during the course of this follow-up evaluation contain updated CTIP clause information, specifically with regard to the Alternate I CTIP clause, and inclusion of specific Kuwaiti labor law requirements to allow for tailored TIP monitoring.

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USAFCENT Response: ‘Agree’ The 386 ECONS will review the contracts listed in Appendix G and modify them to make sure they contain both the CTIP clause information and Alternate 1 CTIP Clause IAW the FAR and DFARS. The ECONS will coordinate with Legal personnel onsite to incorporate information specific to Kuwaiti labor law requirements. **(Estimated Completion, 30 September 2022)**

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Acronyms and Abbreviations

AAFES	Army and Air Force Exchange Service
ACC-RI	U. S. Army Contracting Command–Rock Island
ACO	Administrative Contracting Officer
AOR	Area of Responsibility
CCMD	Combatant Command
CFR	Code of Federal Regulation
COR	Contracting Officer’s Representative
CPARS	Contractor Performance Assessment Reporting System
CSB	Contracting Support Brigade
CTIP	Combating Trafficking in Persons
DFARS	Defense Federal Acquisition Regulation Supplement
ECONS	Expeditionary Contracting Squadrons
FAR	Federal Acquisition Regulation
IG	Inspector General
NDAA	National Defense Authorization Act
NSPD	National Security Presidential Directive
OIG	Office of Inspector General
PMO	Program Management Office
QA	Quality Assurance
QAPC	Quality Assurance Program Coordinator
QASP	Quality Assurance Surveillance Plan
TIP	Trafficking in Persons
USAFCENT	U.S. Air Forces Central
USCENTCOM	U.S. Central Command

Glossary

Commercial Sex Act. Any sex act on account of which anything of value is given to or received by any person.

Contracting Officer. A Service member or DoD civilian with the legal authority to enter into, administer, modify, and/or terminate contracts.

Contracting Officer's Representative. An individual designated in writing by the Contracting Officer to perform specific technical or administrative functions.

Contractor Performance Assessment Reporting System. A web-enabled application that collects and manages the library of automated Contractor Performance Assessment Reports. Contractor Performance Assessment Reports assess a contractor's performance and provide a record, both positive and negative, on a given contractor during a specific period of time. Each assessment is based on objective facts and supported by program and contract management data, such as cost performance reports, customer comments, quality reviews, technical interchange meetings, financial solvency assessments, construction/production management reviews, contractor operations reviews, functional performance evaluations, and earned contract incentives.

Debt Bondage. 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.

Involuntary Servitude. Involuntary servitude includes a condition of servitude induced by means of:

- any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or
- the abuse or threatened abuse of the legal process.

Operational Contract Support. The process of planning for and obtaining supplies, services, and construction from commercial sources in support of combatant commander-directed operations.

Quality Assurance Surveillance Plan. A document Government personnel use to assess contractor performance. Using the Requirements Roadmap ensures that each performance objective is linked to a method of inspection incorporated into the QASP. The QASP identifies what is going to be inspected, the inspection

process, and who will do the inspecting. The results of those inspections will then be used to document contractor performance. The QASP should be a “living” document and reviewed as performance warrants. It is also important to realize that the contractor, not the Government, is responsible for ensuring performance meets the terms of the contract. Also, the method and degree of performance assessment may change over time depending on the level of confidence in the contractor.

Requiring Activity. The organization charged with meeting a mission and delivering requirements. The requiring activity is responsible for obtaining funding or developing the program objective memorandum. The requiring activity may also be the organizational unit that submits a written requirement or statement of need for services required by a contract. The requiring activity is responsible for delivering the services to meet the mission if a contract is not in effect. Finally, the requiring activity provides a trained and qualified COR capable of determining whether service contract requirements are being performed in accordance with the contract.

Sex Trafficking. The recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.



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