



OIG

Office of Inspector General

U.S. Department of State • Broadcasting Board of Governors

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# Management Assistance Report: Action Still Needed To Update the Department's *Standards of Conduct* as They Relate to Trafficking in Persons and To Comply With a Related Recommendation

## MANAGEMENT ASSISTANCE REPORT

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## Summary of Review

In 2011, the Office of Inspector General (OIG) made 3 recommendations to the Office to Monitor and Combat Trafficking in Persons (J/TIP) that were intended to increase awareness among Department employees about trafficking in persons (TIP) policies and requirements. Specifically, OIG recommended that J/TIP include the U.S. Government's Trafficking in Persons policy in the Department's Foreign Affairs Manual, expand its code of conduct for employees to cover conduct with respect to TIP activities, and provide training on TIP.

Although J/TIP concurred with all the recommendations offered, 2 of the 3 recommendations have not been fully implemented nearly 4 years later. As a result, the Department is not well-positioned to hold employees accountable for violations of TIP or to ensure TIP policies and requirements are understood and followed. Therefore, OIG is compelled to elevate this issue to the Under Secretary for Civilian Security, Democracy, and Human Rights.

In its September 3, 2015, response (see Appendix A) to a draft of this report, the Under Secretary for Civilian Security, Democracy, and Human Rights provided information sufficient to close one of the three open recommendations made to J/TIP. In this same response, the Under Secretary concurred with the two recommendations offered that intend to establish the status of corrective actions and the development and execution of a plan of action to complete corrective actions on the open recommendations. OIG considers the two recommendations resolved, pending further action. However, these recommendations will remain open until fully implemented.

## BACKGROUND

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The Department of State's (Department's) Office to Monitor and Combat Trafficking in Persons (J/TIP)<sup>1</sup> leads the U.S. global engagement in the fight against human trafficking; and pursues policies, partnerships, and practices that uphold the "3P" paradigm of prosecuting traffickers, protecting victims, and preventing trafficking.<sup>2</sup> The Director of J/TIP formulates, directs, and implements the Department's policies on human trafficking.<sup>3</sup>

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<sup>1</sup> As a result of the 2010 Quadrennial Diplomacy and Development Review, in January 2012, the Office to Monitor and Combat Trafficking in Persons was moved from under the Under Secretary for Global Affairs (G) to a newly-created Under Secretary for Civilian Security, Democracy, and Human Rights (J). Thus, G/TIP changed to J/TIP.

<sup>2</sup> See <http://www.state.gov/j/tip/index.htm>. The J/TIP website states: "Over the past 15 years, 'trafficking in persons' and 'human trafficking' have been used as umbrella terms for activities involved when someone obtains or holds a person in compelled service. ... The United States government considers trafficking in persons to include all of the criminal conduct involved in forced labor and sex trafficking, essentially the conduct involved in reducing or holding someone in compelled service. Under the Trafficking Victims Protection Act as amended (TVPA) and consistent with the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), individuals may be trafficking victims regardless of whether they once consented, participated in a

On October 20, 2011, OIG issued a report entitled *Audit of Bureau of East Asian and Pacific Affairs Compliance with Trafficking in Persons Requirements* (AUD/IP-12-02). This audit found that Department employees were not uniformly aware of key matters relating to TIP, including what constitutes TIP activity, the penalties for TIP violations, and where to report allegations of violations. Moreover, although the Department's code of conduct prohibited employees from acquiring a commercial sex act and using forced domestic labor, it did not specifically address TIP or require employees to report suspected TIP violations. Based on these findings, OIG made four recommendations to J/TIP. Of these four recommendations, OIG closed Recommendation 3 on July 23, 2013, based on the Department's decision to designate OIG to receive reports of TIP violations. However, the other three recommendations to include the U.S. Government's TIP policy in the Department's Foreign Affairs Manual (FAM), expand its code of conduct for employees to cover conduct with respect to TIP activities, and provide training on TIP, remained open.

The Office of Management and Budget (OMB) Circular A-50, Audit Followup,<sup>4</sup> requires each agency to ensure that systems are in place for the prompt and proper resolution and implementation of audit recommendations, including written corrective actions plans, where appropriate. Likewise, the FAM, Volume 1, establishes Departmental policies for audit resolution, follow-up, and closure.

OIG considers a recommendation "unresolved," "resolved," or "closed" based on the actions that the Department has taken or plans to take with respect to the recommendation. An unresolved recommendation is one for which the Department has neither taken action nor stated how it plans to implement the recommendation. A resolved recommendation is one for which the Department has agreed to implement the recommendation or one in which the Department has begun, but not yet completed, actions to fully implement the recommendation. Open recommendations include both unresolved and resolved recommendations. A closed recommendation is one for which the Department has completed actions necessary to implement the recommendation and OIG has determined that no additional action is required.

## RESULTS

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The Department has not implemented two<sup>5</sup> of three OIG recommendations made in 2011 to increase awareness among Department employees of TIP policies and requirements. Although J/TIP

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crime as a direct result of being trafficked, were transported into the exploitative situation, or were simply born into a state of servitude."

<sup>3</sup> Foreign Affairs Manual, Volume 1, Section 045.5-1(a)(2).

<sup>4</sup> OMB Circular No. A-50 Revised, *Audit Followup* (Sept. 29, 1982).

<sup>5</sup> OIG provided J/TIP a draft of this Management Assistance Report that initially reported there were three open recommendations. Based on documentation provided by the Under Secretary for Civilian Security, Democracy, and Human Rights in response to a draft of this report, OIG verified that final corrective action occurred for one of three previously open recommendations, expanding trafficking in persons (TIP) training to all Department of State employees, and modified this report accordingly.

“generally concurred” with the recommendations, J/TIP had not communicated with OIG on the status of its corrective actions with respect to the open recommendations. By not implementing the recommendations or J/TIP providing an acceptable alternative to fulfill the intent of the open recommendations, the Department is not well-positioned to hold employees accountable for violations of TIP or ensure TIP policies and requirements are understood and followed. Therefore, OIG recommends that the Under Secretary for Civilian Security, Democracy, and Human Rights review and report on the status of corrective actions and the reasons for delays in completing corrective actions on the remaining two recommendations. OIG also recommends that the Under Secretary provide a plan of action to complete corrective actions to address Recommendations 1 and 2 from OIG Report AUD/IP-12-02.

## **The Department Has Not Updated the Employee Standards of Conduct for TIP**

***AUD/IP-12-02 Recommendation 2.*** OIG recommended that the Office to Monitor and Combat Trafficking in Persons, in consultation with the Office of the Legal Adviser and the Director General of Human Resources, develop and include a TIP policy in the Department of State Standards of Conduct.

In its response to the 2011 draft report, J/TIP stated that it “generally concurs” with the recommendation and noted that the U.S. Agency for International Development “recently put in place a revised standard of conduct relating to TIP, which may be a good starting point for Department discussions on this matter.” In a memorandum to OIG dated August 1, 2012, J/TIP stated that it was updating the Department’s Standards of Conduct as they relate to TIP and that they were in clearance with the Office of the Assistant Legal Adviser for Employment.

No further communication was received from J/TIP until its response to a draft of this Management Assistance Report. For example, OIG sent J/TIP a request for an update on July 23, 2013, and has continued to remind J/TIP of these open recommendations in monthly reports on open J/TIP recommendations sent to J/TIP. In addition, OIG has notified Department management and Congress of these open recommendations in its Semiannual Reports to Congress. OIG reviewed the current version of the Department Standards of Conduct, as published in 3 FAM 4138 and found that, as of August 3, 2015, it did not include a TIP policy.

Current Status of the Recommendation: Resolved, pending further action.

## **The Department Has Not Fully Updated Department Policies on TIP**

***AUD/IP-12-02 Recommendation 1.*** OIG recommended that the Office to Monitor and Combat Trafficking in Persons include, in the Foreign Affairs Manual (FAM), the U.S. Government policy regarding trafficking in persons (TIP) to include the definition of TIP activity and information on the prohibition against involvement in acts of TIP for Department of State personnel and contractors, the associated penalties for violations, and the mechanism to report such violations.

In its response to the 2011 draft report, J/TIP stated that it “generally concurs” with the recommendation and noted that colleagues from the Bureau of Administration and the Office of the Director General have agreed that the FAM should have a distinct section on human trafficking. In its August 1, 2012, memorandum, J/TIP stated that it had drafted a new section for the FAM that includes a definition of TIP activity (1 FAM 045.6). Additionally, in the course of examining the FAM, J/TIP stated that it also worked with the Bureau of Consular Affairs to make minor changes to 7 FAM 1730 (Child Exploitation) in places where there were dated references to J/TIP.

OIG reviewed the FAM sections to determine whether FAM changes have been finalized to incorporate the U.S. Government policy on TIP. OIG found that 1 FAM 045.5 does provide a definition of TIP activity but does not address the other elements in the recommendation. Therefore, as of August 3, 2015, the FAM still does not provide information on the prohibition against involvement in acts of TIP for Department of State personnel and contractors, the associated penalties for violations, and the mechanism to report such violations.

Current Status of the Recommendation: Resolved, pending further action.

## **The Department Has Expanded TIP Training to All Department Employees**

***AUD/IP-12-02 Recommendation 4.*** OIG recommended that the Office to Monitor and Combat Trafficking in Persons, in consultation with the Foreign Service Institute and the Director General of Human Resources, expand trafficking in persons (TIP) training to all Department of State employees to include increasing the awareness of the U.S. Government's zero tolerance policy toward TIP and reducing the incidence of TIP activity involving contractor personnel and employees who represent the United States abroad.

In its response to the 2011 draft report, J/TIP stated that it “generally concurs” with the recommendation and noted that it was discussing this matter with the Office of the Director General, the Office of the Under Secretary for Management, and the Foreign Service Institute (FSI). In its August 1, 2012, memorandum, J/TIP stated that it had worked very closely with FSI to develop an on-line universal TIP training course for Department employees. FSI hired a project manager and J/TIP staff provided their subject matter expertise. J/TIP stated that the course would include material regarding the U.S. Government's zero tolerance policy towards TIP and reducing the incidence of TIP activity involving contractor personnel and employees who represent the United States abroad. J/TIP also reported that the TIP training slides were complete and, once all the clearances have been received, the course would be made available to Department employees.

As of August 3, 2015, the FSI course catalog contained five classes that reference trafficking in persons:

- EX275 - Trafficking in Persons Awareness for Diplomatic Security Personnel,

- PC406 - Combating Trafficking in Persons,<sup>6</sup>
- PG140 - Political/Economic Tradecraft,
- PA178 - Contracting Officer's Representative, and
- PP460 – Human Trafficking Awareness.

The first four courses listed above—EX275, PC406, PG140, and PA178—are directed to specific subsets of Department personnel for performing their respective job duties. In addition, PP460 is available to all Department Foreign Service and Civil Service personnel and covers the definition of TIP, TIP red flags, employee responsibilities, contracting requirements, and reporting requirements. However, in August 2015, OIG performed a search of the Department's website and did not find evidence that it had been advertised to Department employees.

In its September 3, 2015, response to a draft of this Management Assistance Report, the Under Secretary for Civilian Security, Democracy, and Human Rights provided documentation that demonstrated that PP460 was indeed advertised to Department employees in a cable and in a *State Magazine* article.<sup>7</sup> Therefore, PP460 and the cable advertising this training fulfilled the intent of the recommendation. OIG therefore considers this recommendation closed and no further action is required.

Current Status of the Recommendation: Closed.

## CONCLUSION

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Nearly 4 years since OIG reported that J/TIP concurred with the recommendations offered, two of three recommendations remain open and J/TIP has not provided OIG documentation demonstrating that the Standards of Conduct have been updated or that sufficient corrective action has been taken on the related recommendation. OIG has periodically noted these open recommendations in a memorandum to J/TIP, in its Semiannual Reports to Congress, and in monthly reports on open J/TIP recommendations provided to J/TIP. As a result of not implementing the remaining two recommendations, the Department is not well-positioned to hold employees accountable for violations of TIP or to ensure TIP policies and requirements are understood and followed.

**Recommendation 1:** OIG recommends that the Under Secretary for Civilian Security, Democracy, and Human Rights provide a report to OIG within 60 days of report issuance on the status of corrective actions and the reasons for delays in completing corrective actions on Recommendations 1 and 2 from Audit Report AUD/IP-12-02.

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<sup>6</sup> The catalog course states that it is designed for consular employees as follows: "This course is designed to raise awareness of the patterns involved in trafficking in persons and the resources available if trafficking victims present themselves at a Consular Section."

<sup>7</sup> 13 STATE 168582, dated December 20, 2013, and "Department to Launch Human Trafficking Training," *State Magazine*, October 2013, p. 30.

**Management Response:** The Under Secretary for Civilian Security, Democracy, and Human Rights agreed with the recommendation.

**OIG Reply:** Based on the Under Secretary's agreement with the recommendation, OIG considers the recommendation resolved. In addition, with the closing of the previously open Recommendation 4 from the original report, this recommendation has been modified to exclude Recommendation 4. Recommendation 1 set forth above will be closed when OIG receives and accepts a report within 60 days of this Management Assistance Report. That report will address the status of corrective actions and the reasons for delays in completing corrective actions on Recommendations 1 and 2 from Audit Report AUD/IP-12-02.

**Recommendation 2:** OIG recommends that the Under Secretary for Civilian Security, Democracy, and Human Rights provide a plan of action to complete corrective actions, including appropriate milestones, to address Recommendations 1 and 2 from Audit Report AUD/IP-12-02.

**Management Response:** The Under Secretary for Civilian Security, Democracy, and Human Rights agreed with the recommendation.

**OIG Reply:** Based on the Under Secretary's agreement with the recommendation, OIG considers the recommendation resolved. In addition, with the closing of the previously open Recommendation 4 from the original report, this recommendation has been modified to exclude Recommendation 4. Recommendation 2 set forth above will be closed when OIG receives and accepts a plan of action to complete corrective actions, including appropriate milestones, to address Recommendations 1 and 2 from Audit Report AUD/IP-12-02.

## RECOMMENDATIONS

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**Recommendation 1:** OIG recommends that the Under Secretary for Civilian Security, Democracy, and Human Rights provide a report to OIG within 60 days of report issuance on the status of corrective actions and the reasons for delays in completing corrective actions on Recommendations 1 and 2 from Audit Report AUD/IP-12-02.

**Recommendation 2:** OIG recommends that the Under Secretary for Civilian Security, Democracy, and Human Rights provide a plan of action to complete corrective actions, including appropriate milestones, to address Recommendations 1 and 2 from Audit Report AUD/IP-12-02.

# APPENDIX A: UNDER SECRETARY FOR CIVILIAN SECURITY, DEMOCRACY, AND HUMAN RIGHTS RESPONSE TO DRAFT REPORT

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United States Department of State

Washington, D.C. 20520

UNCLASSIFIED

September 3, 2015

## MEMORANDUM FOR INSPECTOR GENERAL LINICK (OIG)

FROM: J – Sarah B. Sewall

A handwritten signature in black ink, appearing to read 'S. Sewall', written over the printed name.

SUBJECT: Draft OIG Report on the Department's Actions to Strengthen Standards of Conduct as They Relate to Trafficking in Persons (TIP)

Thank you for calling to my attention the recommendations outstanding from your previous audit report on compliance with TIP requirements by the Bureau of East Asian and Pacific Affairs (AUD/IP-12-02) and for providing me the opportunity to comment formally on this management assistance report.

Combatting human trafficking is a top policy priority, not only for me, but also for the Administration and Secretary Kerry. And, while much of our anti-TIP work involves working with other governments to better prevent this heinous crime, protect victims, and prosecute suspected traffickers, we in the Department know that it is our responsibility to set the highest standards for our own practices and behavior. That is why we, as part of the U.S. government, have a zero tolerance policy regarding TIP and specifically prohibit employees from procuring commercial sex acts and from using forced domestic labor. That is also why we have taken important steps in recent years to increase awareness of TIP within the Department, such as developing a new training course for all employees.

I regret that the TIP office did not keep the OIG fully informed of these steps or its work to implement the recommendations from the audit report. I recently learned that, subsequent to the issuance of the 2012 OIG report, J/TIP did not have a consistent designated point of contact (POC) to oversee follow-up and closure of OIG recommendations. However, J/TIP has now designated an OIG POC and established a management chain to ensure that this POC is held accountable for responsiveness to the OIG. In addition, I have asked your audit team, effective immediately, to routinely share information with me on any outstanding recommendations that have come to the bureaus and offices under my purview so that I can ensure all J components are fully responsive to the OIG.

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In responding to your draft report, I concur with both recommendations. I also offer one important factual correction:

Your recent draft report acknowledges that, consistent with the prior audit report's recommendation to expand TIP training to all Department employees (recommendation 4), the TIP office worked closely with the Foreign Service Institute to develop an on-line universal TIP training course. This course (Human Trafficking Awareness Training, PP460) uses interactive modules and case studies to define human trafficking, identify red flags, and outline the Federal government's zero tolerance policy; it also provides information on the Department's standards of conduct related to trafficking, particularly sex trafficking, and outlines how to report information about potential or actual instances of human trafficking or related activities. However, your report states that creation of this course is not sufficient to close the relevant recommendation because "[the course] has not been advertised in Department Notices or cables to post and Department employees."

That is incorrect. On December 20, 2013, FSI released a cable to all diplomatic and consular posts announcing the new, interactive online course (see 13 STATE 168582). This cable stated that all direct-hire employees should take the course and advised that mission leadership strongly encourage all personnel under Chief of Mission authority to take it, as well. Notably, this course had been previewed for all Department personnel earlier in the year in a State Magazine article entitled "Department to Launch Human Trafficking Training."

Therefore, I respectfully ask that you correct the forthcoming management assistance report to accurately reflect both the creation of the training course and the announcement of that course to all Department employees.

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