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**The standard provisions for U.S. and Non-U.S. NGOs have been incorporated into [ADS 303](#). All other portions of this AAPD remain in effect as in the AAPD below.**



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# Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance Issued: May 11, 2007

## AAPD 07-03

### Anti-Trafficking Activities--Limitation on Use of Funds; Restriction on Organizations Promoting, Supporting, or Advocating Prostitution

Subject Category: ACQUISITION MANAGEMENT, ASSISTANCE  
Type: POLICY AND PROCEDURES

AAPDs provide information of significance to all agency personnel and partners involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. Also, AAPDs may be used to implement new requirements on short-notice, pending formal amendment of acquisition or assistance regulations.

AAPDs are EFFECTIVE AS OF THE ISSUED DATE unless otherwise noted in the guidance below; the directives remain in effect until this office issues a notice of cancellation.

This AAPD:  Is New  Replaces AAPD 04-09 and Supplements AAPD 04-16

Applicable to:

Existing awards;  Modification required

No later than

As noted in guidance below

RFPs/RFAs issued on or after the effective date of this AAPD; all other Pending Awards, i.e., 8(a), sole source, IQC

Other or N/A

Precedes change to:

AIDAR \_\_\_\_\_ and Appendix

USAID Automated Directives System (ADS) Chapter 302, 303, and 308

Code of Federal Regulations

Other

No change to regulations

New Provisions/Clause Provided Herein

*(signed copy on file)*

Michael F. Walsh

## 1. **PURPOSE:**

The purpose of this AAPD is to update provisions that restrict the use of funds made available to carry out Section 113(g) of the Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386 (2000) (the “TVPA”), as reauthorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193 (2003) (the “2003 TVPRA”), and as further reauthorized by the Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164 (2006) (the “2005 TVPRA”).

**To comply with the TVPA, this AAPD applies, effective as of the date of signature, only to awards with the purpose of combating trafficking in persons, regardless of the year of the appropriation funding the award** (See Note 1 after the Index of Attachments). These awards include acquisition and assistance awards, and collaboration agreements (see AAPD 04-16, [http://www.usaid.gov/business/business\\_opportunities/cib/pdf/aapd04\\_16.pdf](http://www.usaid.gov/business/business_opportunities/cib/pdf/aapd04_16.pdf)):

- For **acquisition solicitations and awards**, go to Section 2.A of this AAPD and Attachments A and B.
- ~~For **assistance solicitations and awards to non-governmental organizations**, go to Section 2.B of this AAPD and Attachments C and D.~~
- For **assistance awards to Public International Organizations**, go to section 2.C of this AAPD and Attachment E.
- For **collaboration agreement solicitations and awards to Non-Traditional Partners**, go to Sections 2.B.1 and 2.D of this AAPD, and Attachments C and F.
- For **Personal Services Contracts**, the requirements and clauses of this AAPD do not apply.

The Note in Section 4. “Guidance” explains the differences between this AAPD and the requirements of (i) the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 as set forth in AAPD 12-04 and (ii) the “Combating Trafficking in Persons” clauses in FAR 52.222-50 as prescribed by FAR 22.17.

## 2. **ACTIONS REQUIRED:**

**A. Contracts.** Use the provisions as prescribed in Attachments A and B, as summarized below:

1. Notice Regarding Pre-Award Review by the Senior Policy Operating Group (SPOG)

Contracting Officers must include the provision in Attachment A in each Request for Proposal (RFP) that could lead to a contract and in each Request for Task Order Proposal (RFTOP) that could lead to a task order, in each case, for activities to combat trafficking in persons, as funded from any year program resources. The notice also must be provided to contractors if a contract or task order may be modified to add new work that involves activities to combat trafficking in persons.

## 2. Acquisition Special Provision: Program Restriction and Termination

Include the provision as prescribed in Attachment B:

- For all new contract awards, including task orders, for anti-trafficking in persons activities; and
- For contract/task order modifications to add new funds for anti-trafficking in persons activities.

The prescribed clause applies to a prime contractor and sub-contractors at any tier.

### **B. Assistance to Non-Governmental Organizations (NGOs):** Use the provisions prescribed in Attachments C and D, as summarized below.

#### 1. Eligibility – Solicitation Provision (Assistance)

Agreement Officers must include the provision in Attachment C in each new Request for Application (RFA) and Annual Program Statement (APS) that could lead to a ~~grant, cooperative agreement, or a~~ Public-Private Alliance (PPA) collaboration agreement for activities to combat trafficking in persons as funded from any year program resources. This provision applies to awards to any

- ~~a. U.S. non-governmental organization (“U.S. NGO”),~~
- ~~b. Non-U.S. non-governmental organization (“Non-U.S. NGO”), and~~
- c. Collaboration Agreement Non-Traditional Partners (“Non-Traditional Partners”).

**NOTE:** AAPD 04-16 provides guidelines for Public-Private Alliances and requires that solicitations for PPA awards follow acquisition or assistance solicitation procedures. Therefore, the solicitation provision in Attachment C must be included in PPA solicitations. If the PPA solicitation leads to the award of a contract pursuant to ADS 302, “USAID Direct Contracting,” then the provision prescribed in Attachment B applies (see Section 2.A.2 of this AAPD above). If the PPA solicitation leads to the award of a grant or cooperative agreement pursuant to ADS 303, “Grants and Cooperative Agreements to Non-Governmental Organizations,” then one of the provisions prescribed in Attachment D (see Section 2.B.2 of this AAPD below) applies. However, if the PPA solicitation leads to the award of a PPA collaboration agreement, as described in AAPD 04-16, then the provisions prescribed in Attachment F apply (see Section 2.D of this AAPD below).

#### ~~2. Limitation on the Use of Funds – Award Provisions for Non-Governmental Organizations (NGOs)~~

~~Agreement Officers must include the applicable provision from either Attachment D.1 or Attachment D.2 as a Standard Provision in any new assistance award or amendment to any of these instruments, if the award uses funds made available for activities to combat trafficking in persons as funded from any year program~~

~~resources (See Note 1 after the Index of Attachments). The provisions in Attachment D apply only to awards to any U.S. non-governmental organization (“U.S. NGO”) or Non-U.S. non-governmental organization (“Non-U.S. NGO”).~~

The prescribed provision applies whether the recipient is a prime or sub-recipient.

**C. Assistance to Public International Organizations (PIOs):** Use the provisions prescribed in Attachment E, as summarized below.

Limitation on the Use of Funds – Award Provisions for Public International Organizations (PIOs)

Agreement Officers must include the applicable provision from either Attachment E.1 or Attachment E.2 as a Standard Provision in any new assistance award or amendment, if the award uses funds made available for activities to combat trafficking in persons as funded from any year program resources (See Note 1 after the Index of Attachments). The provisions in Attachment E apply only to awards to any Public International Organization.

The prescribed provision applies whether the recipient is a prime or sub-recipient.

**D. Collaboration Agreements with Non-Traditional Partners.** Use the provisions prescribed in Attachment F, as summarized below.

1. Limitation on the Use of Funds – Award Provisions Collaboration Agreement Non-Traditional Partners

Agreement Officers must include the applicable provision from either Attachment F.1 or Attachment F.2 as a Standard Provision in any new collaboration agreement or amendment to a collaboration agreement, if the award uses funds made available for activities to combat trafficking in persons as funded from any year program resources. The provisions in Attachment F apply only to awards to any collaboration agreement Non-Traditional Partner.

The prescribed provision applies whether the recipient is a prime or sub-recipient.

**3. BACKGROUND:**

Attachment G includes the legislative background of this AAPD 07-03 and a brief summary of previous AAPD 04-09 related to it.

**4. GUIDANCE:**

The provisions in this AAPD are funding restrictions that enable USAID to exercise administrative remedies should the awardee violate the TVPA, as amended, by not complying with the terms of the award.

When applicable, Contracting Officers must use the contract special provisions as prescribed in Attachments A and B.

When applicable, Agreement Officers must use ~~the solicitation provisions in Attachment C and the Standard Provisions as prescribed in Attachment D for assistance awards to U.S. and non-U.S. NGOs,~~ the Standard Provisions as prescribed in Attachment E for assistance awards to PIOs, and the solicitation provision in Attachment C and the Standard Provisions in Attachment F for collaboration agreements with Non-Traditional Partners.

The restriction on programs, as set forth in Attachment B, and in Sections 1(a) – (c) and 2(a) – (c) in each of Attachments D, E, and F, prohibits the use of funds provided under acquisition and assistance awards, and collaboration agreements for promoting, supporting, or advocating the legalization or practice of prostitution.

The restriction on organizations, as set forth in Section (d) in each of Attachments D.1, E.1 and F.1 requires organizations receiving funds pursuant to assistance awards or collaboration agreements that, in each case, implement programs targeting victims of severe forms of trafficking in persons to state in either the award application or award agreement or both that they do not promote, support, or advocate the legalization or practice of prostitution, as more fully discussed in the prescriptions for the provisions in Attachments D, E and F. Including these Standard Provisions in assistance and collaboration agreement solicitations and awards ensures that, when accepting an award, recipient organizations are complying with the statutory requirements in the 2003 TVPRA, as amended (see Attachment G).

Operating Units intending to fund programs for ameliorative assistance would need to seek counsel from GC or the Regional Legal Adviser on whether the facts of the program support application of provision D.1 or D.2 of Attachment D, in the case of NGOs, or provision E.1 or E.2 of Attachment E, in the case of PIOs, or provision F.1 or F.2 of Attachment F, in the case of Non-Traditional Partners.

**NOTE:** The provisions in this AAPD 07-03 are not to be confused with the clauses at FAR 52.222-50, “Combating Trafficking in Persons” or with AAPD 12-04, “Implementation of the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 - Eligibility Limitation on the Use of Funds and Opposition to Prostitution and Sex Trafficking.”

FAR clause 52.222-50 must be included in all contracts government-wide and provides administrative remedies in the form of the termination of a contract by the U.S. Government if, during the term of the contract, the contractor or subcontractor, or an employee, engages in severe forms of trafficking in persons, procures a commercial sex act, or uses forced labor in performance of the contract, regardless of whether they use

U.S. Government awarded funds to do so.

The attached provisions of this AAPD 07-03 are only included in awards to combat trafficking in persons, while FAR clause 52.222-50 must be included in all contracts government-wide (not just anti-trafficking contracts). See FAR Subpart 22.17 at [http://acquisition.gov/far/current/html/Subpart%2022\\_17.html#wp1088114](http://acquisition.gov/far/current/html/Subpart%2022_17.html#wp1088114).

Moreover, the provisions in AAPD 12-04 must be included in all awards and subawards funded with FY04-FY08 HIV/AIDS funds to a U.S. or non-U.S. non-governmental organization or public international organizations, while the attached provisions of this AAPD 07-03 are only included in awards funding activities to combat trafficking in persons. See AAPD 12-04 at [http://www.usaid.gov/business/business\\_opportunities/cib/year/2012.html](http://www.usaid.gov/business/business_opportunities/cib/year/2012.html).

## **5. POINTS OF CONTACT:**

Agency staff should please direct any questions as follows:

- a. On the legislative requirements in this AAPD to Ruth Ku, GC/EGAT & GH, 202-712-4778, e-mail: [rku@usaid.gov](mailto:rku@usaid.gov);
- b. On acquisition policy, to Diane Howard, M/OAA/P, Phone: (202) 712-0206, e-mail: [dhoward@usaid.gov](mailto:dhoward@usaid.gov); and
- c. On assistance policy, to Michael Gushue, M/OAA/P, 202-712-5831, e-mail: [mqushue@usaid.gov](mailto:mqushue@usaid.gov).

Contractors, recipients, and prospective offerors for contracts, assistance awards and collaboration agreements must direct their questions to the cognizant Contracting Officer or Agreement Officer for the solicitation or award.

## **ATTACHMENTS**

- A. Acquisition Solicitation Provision: Notice Regarding Pre-Award Review by the Senior Policy Operating Group (SPOG)
- B. Acquisition Special Provision: Program Restriction and Termination
- C. Eligibility – Solicitation Provision (Assistance and Other Transactions)
- ~~D. Assistance Provisions – U.S. and Non-U.S. Non-Governmental Organizations (NGOs)~~
  - ~~D.1 Prohibition on Use of Funds Standard Provision – Applicable to Awards Targeting Victims of Severe Forms of Trafficking~~
  - ~~D.2 Prohibition on Use of Funds Standard Provision – Applicable to Awards for Services to Victims No Longer Subject to Trafficking~~
- E. Assistance Provisions – Public International Organizations (PIOs)
  - E.1 Prohibition on Use of Funds Standard Provision – Applicable to Awards Targeting Victims of Severe Forms of Trafficking
  - E.2 Prohibition on Use of Funds Standard Provision – Applicable to Awards for Services to Victims No Longer Subject to Trafficking

- F. Collaboration Agreement Provisions – Non-Traditional Partners
  - F.1 Prohibition on Use of Funds Standard Provision – Applicable to Awards Targeting Victims of Severe Forms of Trafficking
  - F.2 Prohibition on Use of Funds Standard Provision – Applicable to Awards for Services to Victims No Longer Subject to Trafficking
- G. BACKGROUND

NOTE 1: Funds that are made available to the Secretary of State in the Foreign Operations, Export Financing, and Related Programs Appropriations Act under the heading “Bilateral Economic Assistance” and that are allocated or used, in whole or in part, for the purposes of combating trafficking in persons should be considered potentially affected by the restrictions in this AAPD in implementation of Section 113(g) of the TVPA. Consult GC or your RLA to seek legal advice on whether the restrictions apply to the funds in question.



**ATTACHMENT A – Acquisition Solicitation Provision: Notice Regarding Pre-Award Review by the Senior Policy Operating Group (SPOG)**

Prescription: Contracting Officers must include the following special provision in Section M of the Uniform Contract Format of each new Request for Proposals (“RFPs”) or Request for Task Order Proposals for activities related to combating trafficking in persons funded with any year program resources. Contracting Officer may have to notify contractors of this review requirement if an existing contract or task order may be modified to add new activities related to trafficking in persons funded with any year program resources.

“Notice Regarding Pre-Award Review by the Senior Policy Operating Group (SPOG) (MAY 2007)

(a) In accordance with the information-sharing requirements in Section 105(f)(4) of the 2003 TVPRA and subject to the review procedures of the Senior Policy Operating Group (SPOG) -- an inter-agency coordinating body statutorily established by the 2003 TVPRA -- before USAID makes any award for anti-trafficking programs or activities or makes an award with a significant anti-trafficking component, USAID is required, to the extent permitted by law, to share information on its proposed action with the other primary grant-making SPOG member agencies (Department of State, USAID, Department of Justice, Department of Labor, Department of Health and Human Services, and Department of Homeland Security). Such information shared by the awarding SPOG member agency shall include (i) the name and contact information of the contracting officer; (ii) location of proposed project; (iii) proposed amount of the award; and (iv) a one or two sentence description of the project. The contracting officer may share the identity of the potential contract awardee or sub-awardee only if doing so is in accordance with the strict procedures for protecting source selection information as agreed to by the SPOG member agencies.

(b) SPOG member agencies will act as an advisory panel to the source selection authority and have the opportunity to comment on (but not clear) any proposed anti-trafficking award of USAID’s with respect to (1) whether the proposed action will duplicate anti-trafficking activities of other member agencies; (2) whether the proposed action presents opportunities for partnership with anti-trafficking activities of other member agencies; or (3) whether the proposed action or award to a funding recipient is consistent with U.S. Government policies on combating trafficking in persons. This review and comment process may take twenty-seven business days or longer.

(c) The contracting officer is the source selection authority for this solicitation. The contracting officer will, in accordance with FAR 15.3, consider the recommendations of the advisory panel and will make an award decision based on the stated factors in the solicitation.

(End of Provision)”

**ATTACHMENT B – Acquisition Special Provision: Program Restriction and Termination**

Prescription: Contracting Officers must include the following special provision in Section H of the Uniform Contract Format of each new Request for Proposals (“RFPs”), task order, and new or amended contract for activities related to trafficking in persons funded with any year program resources. This requirement flows down to subcontracts at any tier.

If the contract provides for the contractor to execute grants to U.S. NGOs or Non-U.S. NGOs in accordance with ADS Chapter 302 USAID Direct Contracting (Section 302.3.4.8, Grants under Contracts), then the contractor must comply with the assistance provisions in Attachments C and D of this AAPD when awarding grants under its contract (as required in ADS 302.3.4.8.b(4)).

Special Provision:

“PROHIBITION ON THE USE OF FEDERAL FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE THE LEGALIZATION OR PRACTICE OF PROSTITUTION – TIP ACQUISITION (MAY 2007)

- (a) The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. None of the funds made available under this contract may be used to promote, support, or advocate the legalization or practice of prostitution. Nothing in the immediately preceding sentence shall be construed to preclude assistance designed to ameliorate the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.
- (b) The contractor shall insert this clause, in its entirety, in all sub-awards under this award.
- (c) This provision includes express terms and conditions of the contract and any violation of it shall be grounds for unilateral termination of the contract, in whole or in part, by USAID prior to the end of the term.

(End of Provision)”

## **ATTACHMENT C: Eligibility – Solicitation Provision (Assistance and Other Transactions)**

Prescription: Include the following standard provision in solicitations (such as Requests for Application and Annual Program Statements) that could lead to ~~a grant, cooperative agreement, or a collaboration agreement~~ resulting from a solicitation for a Public-Private Alliance pursuant to the Annual Program Statement of the Private Sector Alliances (PSA) section within the Office of Development Partners (ODP), that may, in each case, result in an award for activities related to trafficking in persons funded from any year program resources. This provision applies to ~~U.S. and non-U.S. Non Governmental Organizations (NGOs) and~~ collaboration agreement non-traditional partners.

### **“ORGANIZATIONS ELIGIBLE FOR TIP ASSISTANCE (MAY 2007)**

The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. No funds made available under an agreement resulting from this Request for Application or Annual Program Statement for the purpose of monitoring or combating trafficking in persons may be used to promote, support or advocate the legalization or practice of prostitution. Nothing in the immediately preceding sentence shall be construed to preclude assistance designed to combat trafficking in persons, including programs for prevention, protection of victims, and prosecution of traffickers, by ameliorating the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked. U.S. and foreign organizations, Public International Organizations and collaboration agreement non-traditional partners, in each case, whether prime or sub-recipients, that receive U.S. Government funds to carry out programs that target victims of severe forms of trafficking, which means sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age, cannot promote, support or advocate the legalization or practice of prostitution. The preceding sentence shall not apply to such organizations or non-traditional partners that provide services to individuals solely after they are no longer engaged in activities that resulted from such victims being trafficked.

In accordance with the information-sharing requirements in Section 105(f)(4) of the 2003 TVPRA and subject to the review procedures of the Senior Policy Operating Group (SPOG) -- an inter-agency coordinating body statutorily established by the 2003 TVPRA -- before USAID makes any award for anti-trafficking programs or activities or makes an award with a significant anti-trafficking component, USAID is required, to the extent permitted by law, share information on its proposed action with the other primary grant-making SPOG member agencies (Department of State, USAID, Department of Justice, Department of Labor, Department of Health and Human Services, and Department of Homeland Security). Such information shared by the awarding SPOG member agency shall include (i) the name of the funding recipient (including sub-grantees or sub-awardees); (ii) location of proposed project; (iii) proposed amount of the award; and (iv) a one or two sentence description of the project. SPOG member

agencies shall have the opportunity to comment on (but not clear) any proposed anti-trafficking award of USAID's with respect to (1) whether the proposed action will duplicate anti-trafficking activities of other member agencies; (2) whether the proposed action presents opportunities for partnership with anti-trafficking activities of other member agencies; or (3) whether the proposed action or award to a funding recipient is consistent with U.S. Government policies on combating trafficking in persons. This review and comment process may take twenty-seven business days or longer.

(End of Provision)"

## ~~ATTACHMENT D – Assistance Provisions – U.S. and Non-U.S. Non-Governmental Organizations (NGOs)~~

### ~~D.1 Prohibition on Use of Funds Standard Provision – Applicable to Awards Targeting Victims of Severe Forms of Trafficking~~

~~Prescription. Include the following Standard Provision in assistance awards, when the award~~

- ~~• Uses funds from any year program resources,~~
- ~~• Uses funds made available for activities to combat trafficking in persons, and~~
- ~~• Targets, in any manner, victims of severe forms of trafficking in persons, no matter how small the targeting portion is relative to the entire program.<sup>†</sup>~~

~~Agreement Officers should refer to paragraph (d) of this provision for a definition of “severe forms of trafficking in persons.”~~

~~Subject to the foregoing prescription in this Attachment D, Standard Provision D.1 applies to any new assistance award, or amendment to any of these instruments, to any U.S. or Non-U.S. NGO, whether a prime or sub-recipient:~~

~~Standard Provision:~~

~~“PROHIBITION ON THE USE OF FEDERAL FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE THE LEGALIZATION OR PRACTICE OF PROSTITUTION AWARDS TARGETING VICTIMS OF SEVERE FORMS OF TRAFFICKING (TIP ASSISTANCE, NON-GOVERNMENTAL ORGANIZATIONS) (MAY 2007)~~

~~(a) The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. No funds made available herein may be used to promote, support or advocate the legalization or practice of prostitution. Nothing in the immediately preceding sentence shall be construed to preclude assistance designed to combat trafficking in persons, including programs for prevention, protection of victims, and prosecution of traffickers, by ameliorating the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.~~

~~(b) The recipient shall insert this provision in all sub-agreements under this award.~~

~~(c) The following definitions apply for purposes of this provision:~~

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~~<sup>†</sup> For example, a program advertising a hotline informing victims of severe forms of trafficking of how to get help and deliverance from the situation that resulted from such victims being trafficked as a part of a larger media and awareness-raising campaign against human trafficking would be subject to the restriction on organizations in D.1(d) and would therefore include the entire standard provision in D.1.~~

~~“To support the legalization or the practice of prostitution” means knowingly providing financial support, including the transfer of funds, services, or goods, to any individual or organization that engages in the practice of prostitution, or that supports the legalization of prostitution. However, providing financial support, including the transfer of funds, services, or goods, to victims of sex trafficking, where the purpose of such support is to bring to an end to the situation that resulted from such victims being trafficked, does not constitute support for the legalization or practice of prostitution. Providing ameliorative assistance to victims of sex trafficking does not constitute such support. The restriction on the use of funds does not preclude the use of anti-trafficking funds for assistance designed to promote the purposes of the TVPA, as amended, by (1) ameliorating the suffering of victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked; and, (2) ameliorating the health risks to victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked. Describing to victims assistance that would be available, if the victims were out of the situation that resulted from their being trafficked, does not itself constitute support. A recipient shall not be deemed to have knowingly provided such support if that recipient did not know, and by the exercise of reasonable diligence would not have known, that the support was being used for or would be used for such purposes.~~

~~“To promote or to advocate the legalization or the practice of prostitution” means using financial, personnel, in-kind, or other resources to further the legalization or the practice of prostitution, including, but not limited to, engaging in lobbying activities or advocacy campaigns.~~

~~(d) This subsection (d) only applies to either prime awardees or subawardees receiving U.S. Government funds to carry out programs that target victims of severe forms of trafficking, which means sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age:~~

~~By accepting this award, recipient hereby states that it does not promote, support, or advocate the legalization or practice of prostitution and will not promote, support, or advocate the legalization or the practice of prostitution during the term of this award.~~

~~The recipient shall insert this provision in all sub-agreements under any award resulting from the Request for Application or Annual Program Statement for this award.”~~

~~(e) Subsections (a) through (d) are terms and conditions that are a prerequisite to the receipt of the United States government funds obligated herein. Any breach of these conditions shall be grounds for unilateral termination for cause by the U.S. Agency for International Development of this award and recovery of appropriated funds, as appropriate. A willful breach of these conditions may be grounds for suspension or debarment, in accordance with 22 C.F.R. 145.13, of the recipient organization from~~

~~receiving U.S. government funds in the future.~~

~~(f) The terms of 22 CFR 226.53, “Retention and access requirements for records,” shall apply to this award, and the phrase “other records pertinent to an award” (22 CFR 226.53(b)) includes press and public relations material, Internet content and other broadly disseminated documents (such as training manuals, curricula, and other educational matter) relevant to the conditions set forth in Subsections (a) through (d).~~

~~(End of Provision)”~~

## ~~D.2 Prohibition on Use of Funds Standard Provision – Applicable to Awards for Services to Victims No Longer Subject to Trafficking~~

~~Prescription. Include the following Standard Provision in assistance awards when an assistance award~~

- ~~• Uses funds from any year program resources,~~
- ~~• Uses funds made available for activities to combat trafficking in persons, and~~
- ~~• Provides services solely to individuals who are no longer engaged in the activities resulting from their previous trafficked condition.~~

~~Subject to the foregoing prescription in this Attachment, Standard Provision D.2 applies to any new assistance award, or amendment to any of these instruments, to any U.S. or Non U.S. NGO, whether a prime or sub recipient.~~

~~Standard Provision:~~

~~“PROHIBITION ON THE USE OF FEDERAL FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE THE LEGALIZATION OR PRACTICE OF PROSTITUTION SERVICES TO VICTIMS NO LONGER SUBJECT TO TRAFFICKING (TIP ASSISTANCE, NON GOVERNMENTAL ORGANIZATIONS) (MAY 2007)~~

~~(a) The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. No funds made available herein may be used to promote, support or advocate the legalization or practice of prostitution. Nothing in the immediately preceding sentence shall be construed to preclude assistance designed to combat trafficking in persons, including programs for prevention, protection of victims, and prosecution of traffickers, by ameliorating the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.~~

~~(b) The recipient shall insert this provision in all sub agreements under this award.~~

~~(c) The following definitions apply for purposes of this provision:~~

~~“To support the legalization or the practice of prostitution” means knowingly providing financial support, including the transfer of funds, services, or goods, to any individual or organization that engages in the practice of prostitution, or that supports the legalization of prostitution. However, providing financial support, including the transfer of funds, services, or goods, to victims of sex trafficking, where the purpose of such support is to bring an end to the situation that resulted from such victims being trafficked, does not constitute support for the legalization or practice of prostitution. Providing ameliorative assistance to victims of sex trafficking does not constitute such support. The restriction on the use of funds does not preclude the use of anti-trafficking funds for assistance designed to promote the purposes of the TVPA, as amended, by (1) ameliorating the suffering of victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked; and, (2) ameliorating the health risks to victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked. Describing to victims assistance that would be available, if the victims were out of the situation that resulted from their being trafficked, does not itself constitute support. A recipient shall not be deemed to have knowingly provided such support if that recipient did not know, and by the exercise of reasonable diligence would not have known, that the support was being used for or would be used for such purposes.~~

~~“To promote or to advocate the legalization or the practice of prostitution” means using financial, personnel, in-kind, or other resources to further the legalization or the practice of prostitution, including, but not limited to, engaging in lobbying activities or advocacy campaigns.~~

~~(d) This subsection (d) only applies to awardees that provide services solely to individuals who are no longer engaged in the activities resulting from their previous trafficked condition:~~

~~By accepting this award, the recipient states that during the term of the grant it will provide services to trafficked individuals only after they are no longer engaged in activities that resulted from such victims being trafficked, which means engaging in commercial sex acts induced by force, fraud, or coercion, or any such act in which the person induced to perform such act has not attained 18 years of age.”~~

~~(e) Subsections (a) through (d) are terms and conditions that are a prerequisite to the receipt of the United States government funds obligated herein. Any breach of these conditions shall be grounds for unilateral termination for cause by the U.S. Agency for International Development of this award and recovery of appropriated funds, as appropriate. A willful breach of these conditions may be grounds for suspension or debarment, in accordance with 22 C.F.R. 145.13, of the recipient organization from receiving U.S. government funds in the future.~~

~~(f) The terms of 22 CFR 226.53, “Retention and access requirements for records,” shall apply to this award, and the phrase “other records pertinent to an~~



~~award” (22 CFR 226.53(b)) includes press and public relations material, Internet content and other broadly disseminated documents (such as training manuals, curricula, and other educational matter) relevant to the conditions set forth in Subsections (a) through (d).~~

(End of Provision)”

## **ATTACHMENT E – Assistance Provisions – Public International Organizations (PIOs)**

### **E.1 Prohibition on Use of Funds Standard Provision – Applicable to Awards Targeting Victims of Severe Forms of Trafficking**

Prescription. Include the following Standard Provision in assistance awards, when the award

- Uses funds from any year program resources,
- Uses funds made available for activities to combat trafficking in persons, and
- Targets, in any manner, victims of severe forms of trafficking in persons, no matter how small the targeting portion is relative to the entire program.<sup>2</sup>

Agreement Officers should refer to paragraph (d) of this provision for a definition of “severe forms of trafficking in persons.”

Subject to the foregoing prescription in this Attachment E, Standard Provision E.1 applies to any new assistance award, or amendment, to Public International Organizations, whether a prime or sub-recipient.

Standard Provision:

“PROHIBITION ON THE USE OF FEDERAL FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE THE LEGALIZATION OR PRACTICE OF PROSTITUTION – AWARDS TARGETING VICTIMS OF SEVERE FORMS OF TRAFFICKING (TIP ASSISTANCE, PUBLIC INTERNATIONAL ORGANIZATIONS) (MAY 2007)

(a) The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. No funds made available herein may be used to promote, support or advocate the legalization or practice of prostitution. Nothing in the immediately preceding sentence shall be construed to preclude assistance designed to combat trafficking in persons, including programs for prevention, protection of victims, and prosecution of traffickers, by ameliorating the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.

(b) The recipient shall insert this provision in all sub-agreements under this award.

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<sup>2</sup> For example, a program advertising a hotline informing victims of severe forms of trafficking of how to get help and deliverance from the situation that resulted from such victims being trafficked as a part of a larger media and awareness-raising campaign against trafficking in persons would be subject to the restriction on organizations in E.1(d) and would therefore include the entire standard provision in E.1.

(c) The following definitions apply for purposes of this provision:

“To support the legalization or the practice of prostitution” means knowingly providing financial support, including the transfer of funds, services, or goods, to any individual or organization that engages in the practice of prostitution, or that supports the legalization of prostitution. However, providing financial support, including the transfer of funds, services, or goods, to victims of sex trafficking, where the purpose of such support is to bring to an end to the situation that resulted from such victims being trafficked, does not constitute support for the legalization or practice of prostitution. Providing ameliorative assistance to victims of sex trafficking does not constitute such support. The restriction on the use of funds does not preclude the use of anti-trafficking funds for assistance designed to promote the purposes of the TVPA, as amended, by (1) ameliorating the suffering of victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked; and, (2) ameliorating the health risks to victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked. Describing to victims assistance that would be available, if the victims were out of the situation that resulted from their being trafficked, does not itself constitute support. A recipient shall not be deemed to have knowingly provided such support if that recipient did not know, and by the exercise of reasonable diligence would not have known, that the support was being used for or would be used for such purposes.

“To promote or to advocate the legalization or the practice of prostitution” means using financial, personnel, in-kind, or other resources to further the legalization or the practice of prostitution, including, but not limited to, engaging in lobbying activities or advocacy campaigns.

(d) This subsection (d) only applies to either prime awardees or subawardees receiving U.S. Government funds to carry out programs that target victims of severe forms of trafficking, which means sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age:

By accepting this award, recipient hereby states that it does not promote, support, or advocate the legalization or practice of prostitution and will not promote, support, or advocate the legalization or the practice of prostitution during the term of this award.

The recipient shall insert this provision in all sub-agreements under any award resulting from the Request for Application or Annual Program Statement for this award.

(e) Subsections (a) through (d) are terms and conditions that are a prerequisite to the receipt of the United States government funds obligated herein. Any breach of these conditions shall be grounds for unilateral termination for cause by the U.S. Agency for International Development of this award and recovery of

appropriated funds, as appropriate.

(End of Provision)”

## **E.2 Prohibition on Use of Funds Standard Provision – Applicable to Awards for Services to Victims No Longer Subject to Trafficking**

Prescription. Include the following Standard Provision in assistance awards when such awards

- Use funds from any year program resources,
- Use funds made available for activities to combat trafficking in persons, and
- Provide services solely to individuals who are no longer engaged in the activities resulting from their previous trafficked condition.

Subject to the foregoing prescription in this Attachment E, Standard Provision E.2 applies in any new assistance award, or amendment, to Public International Organizations, whether a prime or sub-recipient.

Standard Provision:

“PROHIBITION ON THE USE OF FEDERAL FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE THE LEGALIZATION OR PRACTICE OF PROSTITUTION – SERVICES TO VICTIMS NO LONGER SUBJECT TO TRAFFICKING (TIP ASSISTANCE, PUBLIC INTERNATIONAL ORGANIZATIONS) (MAY 2007)

(a) The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. No funds made available herein may be used to promote, support or advocate the legalization or practice of prostitution. Nothing in the immediately preceding sentence shall be construed to preclude assistance designed to combat trafficking in persons, including programs for prevention, protection of victims, and prosecution of traffickers, by ameliorating the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.

(b) The recipient shall insert this provision in all sub-agreements under this award.

(c) The following definitions apply for purposes of this provision:

“To support the legalization or the practice of prostitution” means knowingly providing financial support, including the transfer of funds, services, or goods, to any individual or organization that engages in the practice of prostitution, or that supports the legalization of prostitution. However, providing financial support, including the transfer of funds, services, or goods, to victims of sex trafficking, where the purpose of such support is to

bring to an end to the situation that resulted from such victims being trafficked, does not constitute support for the legalization or practice of prostitution. Providing ameliorative assistance to victims of sex trafficking does not constitute such support. The restriction on the use of funds does not preclude the use of anti-trafficking funds for assistance designed to promote the purposes of the TVPA, as amended, by (1) ameliorating the suffering of victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked; and, (2) ameliorating the health risks to victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked. Describing to victims assistance that would be available, if the victims were out of the situation that resulted from their being trafficked, does not itself constitute support. A recipient shall not be deemed to have knowingly provided such support if that recipient did not know, and by the exercise of reasonable diligence would not have known, that the support was being used for or would be used for such purposes.

“To promote or to advocate the legalization or the practice of prostitution” means using financial, personnel, in-kind, or other resources to further the legalization or the practice of prostitution, including, but not limited to, engaging in lobbying activities or advocacy campaigns.

(d) This subsection (d) only applies to awardees that provide services solely to individuals who are no longer engaged in the activities resulting from their previous trafficked condition:

By accepting this award, the recipient states that during the term of the grant it will provide services solely to trafficked individuals only after they are no longer engaged in activities that resulted from such victims being trafficked, which means engaging in commercial sex acts induced by force, fraud, or coercion, or any such act in which the person induced to perform such act has not attained 18 years of age.

(e) Subsections (a) through (d) are terms and conditions that are a prerequisite to the receipt of the United States government funds obligated herein. Any breach of these conditions shall be grounds for unilateral termination for cause by the U.S. Agency for International Development of this award and recovery of appropriated funds, as appropriate.

(End of Provision)”

## **ATTACHMENT F – Collaboration Agreement Provisions – Non-Traditional Partners**

### **F.1 Prohibition on Use of Funds Standard Provision – Applicable to Awards Targeting Victims of Severe Forms of Trafficking**

Prescription. Include the following Standard Provision in a Public-Private Alliance Collaboration Agreement, when it

- Uses funds from any year program resources,
- Uses funds made available for activities to combat trafficking in persons, and
- Targets, in any manner, victims of severe forms of trafficking in persons, no matter how small the targeting portion is relative to the entire program.<sup>3</sup>

Agreement Officers should refer to paragraph (d) of this provision for a definition of “severe forms of trafficking in persons.”

Subject to the foregoing prescription in this attachment, Standard Provision F.1 applies to any new collaboration agreement, or amendment, to collaboration agreement Non-Traditional Partners, whether a prime or sub-recipient.

Standard Provision:

“PROHIBITION ON THE USE OF FEDERAL FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE THE LEGALIZATION OR PRACTICE OF PROSTITUTION – AWARDS TARGETING VICTIMS OF SEVERE FORMS OF TRAFFICKING (TIP ASSISTANCE, COLLABORATION AGREEMENT NON-TRADITIONAL PARTNERS) (MAY 2007)

(a) The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. No funds made available herein may be used to promote, support or advocate the legalization or practice of prostitution. Nothing in the immediately preceding sentence shall be construed to preclude assistance designed to combat trafficking in persons, including programs for prevention, protection of victims, and prosecution of traffickers, by ameliorating the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.

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<sup>3</sup> For example, a program advertising a hotline informing victims of severe forms of trafficking of how to get help and deliverance from the situation that resulted from such victims being trafficked as a part of a larger media and awareness-raising campaign against human trafficking would be subject to the restriction on organizations in F.1(d) and would therefore include the entire standard provision in F.1.

(b) The recipient shall insert this provision in all sub-agreements under this award.

(c) The following definitions apply for purposes of this provision:

“To support the legalization or the practice of prostitution” means knowingly providing financial support, including the transfer of funds, services, or goods, to any individual or organization that engages in the practice of prostitution, or that supports the legalization of prostitution. However, providing financial support, including the transfer of funds, services, or goods, to victims of sex trafficking, where the purpose of such support is to bring to an end to the situation that resulted from such victims being trafficked, does not constitute support for the legalization or practice of prostitution. Providing ameliorative assistance to victims of sex trafficking does not constitute such support. The restriction on the use of funds does not preclude the use of anti-trafficking funds for assistance designed to promote the purposes of the TVPA, as amended, by (1) ameliorating the suffering of victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked; and, (2) ameliorating the health risks to victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked. Describing to victims assistance that would be available, if the victims were out of the situation that resulted from their being trafficked, does not itself constitute support. A recipient shall not be deemed to have knowingly provided such support if that recipient did not know, and by the exercise of reasonable diligence would not have known, that the support was being used for or would be used for such purposes.

“To promote or to advocate the legalization or the practice of prostitution” means using financial, personnel, in-kind, or other resources to further the legalization or the practice of prostitution, including, but not limited to, engaging in lobbying activities or advocacy campaigns.

(d) This subsection (d) only applies to either prime awardees or subawardees receiving U.S. Government funds to carry out programs that target victims of severe forms of trafficking, which means sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age:

By accepting this award, recipient hereby states that it does not promote, support, or advocate the legalization or practice of prostitution and will not promote, support, or advocate the legalization or the practice of prostitution during the term of this award.

The recipient shall insert this provision in all sub-agreements under any award resulting from the Request for Application or Annual Program Statement for this award.

(e) Subsections (a) through (d) are terms and conditions that are a prerequisite

to the receipt of the United States government funds obligated herein. Any breach of these conditions shall be grounds for unilateral termination for cause by the U.S. Agency for International Development of this award and recovery of appropriated funds, as appropriate.

(End of Provision)”

## **F.2 Prohibition on Use of Funds Standard Provision – Applicable to Awards for Services to Victims No Longer Subject to Trafficking**

Prescription. Include the following Standard Provision in collaboration agreements when such awards

- Use funds from any year program resources,
- Use funds made available for activities to combat trafficking in persons, and
- Provide services solely to individuals who are no longer engaged in the activities resulting from their previous trafficked condition.

Subject to the foregoing prescription in this attachment, Standard Provision F.2 applies to in any new assistance award, collaboration agreement, or amendment to any of these instruments, to collaboration agreement Non-Traditional Partners, whether a prime or sub-recipient.

Standard Provision:

“PROHIBITION ON THE USE OF FEDERAL FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE THE LEGALIZATION OR PRACTICE OF PROSTITUTION – SERVICES TO VICTIMS NO LONGER SUBJECT TO TRAFFICKING (TIP ASSISTANCE, COLLABORATION AGREEMENT NON-TRADITIONAL PARTNERS) (MAY 2007)

(a) The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. No funds made available herein may be used to promote, support or advocate the legalization or practice of prostitution. Nothing in the immediately preceding sentence shall be construed to preclude assistance designed to combat trafficking in persons, including programs for prevention, protection of victims, and prosecution of traffickers, by ameliorating the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.

(b) The recipient shall insert this provision in all sub-agreements under this award.

(c) The following definitions apply for purposes of this provision:

“To support the legalization or the practice of prostitution” means knowingly providing



financial support, including the transfer of funds, services, or goods, to any individual or organization that engages in the practice of prostitution, or that supports the legalization of prostitution. However, providing financial support, including the transfer of funds, services, or goods, to victims of sex trafficking, where the purpose of such support is to bring to an end to the situation that resulted from such victims being trafficked, does not constitute support for the legalization or practice of prostitution. Providing ameliorative assistance to victims of sex trafficking does not constitute such support. The restriction on the use of funds does not preclude the use of anti-trafficking funds for assistance designed to promote the purposes of the TVPA, as amended, by (1) ameliorating the suffering of victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked; and, (2) ameliorating the health risks to victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked. Describing to victims assistance that would be available, if the victims were out of the situation that resulted from their being trafficked, does not itself constitute support. A recipient shall not be deemed to have knowingly provided such support if that recipient did not know, and by the exercise of reasonable diligence would not have known, that the support was being used for or would be used for such purposes.

“To promote or to advocate the legalization or the practice of prostitution” means using financial, personnel, in-kind, or other resources to further the legalization or the practice of prostitution, including, but not limited to, engaging in lobbying activities or advocacy campaigns.

(d) This subsection (d) only applies to awardees that provide services solely to individuals who are no longer engaged in the activities resulting from their previous trafficked condition:

By accepting this award, recipient states that during the term of the grant it will provide services to trafficked individuals only after they are no longer engaged in activities that resulted from such victims being trafficked, which means engaging in commercial sex acts induced by force, fraud, or coercion, or any such act in which the person induced to perform such act has not attained 18 years of age.

(e) Subsections (a) through (d) are terms and conditions that are a prerequisite to the receipt of the United States government funds obligated herein. Any breach of these conditions shall be grounds for unilateral termination for cause by the U.S. Agency for International Development of this award and recovery of appropriated funds, as appropriate.

(End of Provision)”

## **ATTACHMENT G – BACKGROUND**

### **A. General**

It is the policy of the United States Government to prevent (i) the use of United States funds to combat sex trafficking in persons (“anti-trafficking funds”) to support the legalization or practice of prostitution and (ii) the provision of certain anti-trafficking funds to organizations that support the legalization or practice of prostitution. Funds for anti-trafficking in persons activities should not be used in this manner because prostitution and related activities are inherently harmful and dehumanizing and contribute to the phenomenon of trafficking in persons. The United States therefore seeks to reduce the incidence of prostitution as part of its larger strategy to combat trafficking in persons, and will not execute this strategy through programs or organizations that promote, support, or advocate the legalization or practice of prostitution.

This AAPD supplements the General Funding Guidelines to Implement the National Security Presidential Directive on Combating Trafficking in Persons (the “Guidelines”) signed on December 16, 2002, as amended and approved on February 17, 2006 by the Senior Policy Operating Group on Trafficking in Persons (SPOG), an inter-agency coordinating body statutorily established by the 2003 TVPRA and whose membership (including USAID) was determined pursuant to Executive Order No. 13257 of February 13, 2002. The Guidelines comprehensively and positively implement the policy on prostitution as set forth above. This AAPD also implements the limitations on the use of U.S. Government funds in any award to combat sex trafficking in persons as set forth in Section 113(g) of the 2003 TVPRA and as more fully described below.

Previous AAPD 04-09 was USAID’s initial implementation of Section 113(g) of the TVPA before the SPOG issued guidance on implementation in the interagency coordination process. This AAPD 07-03 now replaces previous AAPD 04-09 primarily to (i) apply the organizational restriction to U.S. organizations in assistance awards and collaboration agreements where it previously did not apply and (ii) reflect guidance issued in connection with the SPOG interagency coordination process on implementing Section 113(g) of the TVPA and the information-sharing requirements of Section 105(f)(4) of the 2003 TVPRA. Section 105(f)(4) of the 2003 TVPRA requires each Federal department or agency represented on the SPOG to “fully share all information with [the SPOG] regarding the department or agency’s plans, before and after final agency decisions are made, on all matters relating to grants, grant policies, and other significant actions regarding the international trafficking in persons and the implementation of [the TVPA].” AAPD 04-09 required including the restriction on programs in Personal Services Contracts (PSCs), but USAID has determined that because Personal Services Contractors are held to the same standard of conduct as federal employees, the clause is not required for PSCs. Consistent with that policy determination, this AAPD 07-03 eliminates the restriction on programs as applied to Personal Services Contractors.

Please note that AAPD 04-09 is available on the AAPD “Archives” page under each subject category to which it applied (“Assistance,” “Acquisition Management,” and “Personal Services Contracts”). The AAPD Archives are available on the USAID website at: [http://www.usaid.gov/business/business\\_opportunities/cib/archive.html](http://www.usaid.gov/business/business_opportunities/cib/archive.html) and includes the “Why and When” link to explain why the listed AAPDs, including AAPD 04-09, were archived.

### **B. The Anti-TIP Authorization**

1. Text of the Legislation. The following is the text of Section 113(g) of the 2003 TVPRA:

“(g) Limitation on use of funds

(1) Restriction on programs

No funds made available to carry out this division, or any amendment made by this division, may be used to promote, support, or advocate the legalization or practice of prostitution. Nothing in the preceding sentence shall be construed to preclude assistance designed to promote the purposes of this Act by ameliorating the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.

(2) Restriction on organizations.

No funds made available to carry out this division, or any amendment made by this division, may be used to implement any program that targets victims of severe forms of trafficking in persons described in section 103(8)(A) of this title through any organization that has not stated in either a grant application, a grant agreement, or both, that it does not promote, support, or advocate the legalization or practice of prostitution. The preceding sentence shall not apply to organizations that provide services to individuals solely after they are no longer engaged in activities that resulted from such victims being trafficked.”

2. What assistance is restricted? The restriction is tied to “funds made available to carry out” the TVPA. The TVPA itself does not appropriate funds, although it purports to authorize them, without, however, specifying an appropriations account. Correspondingly, no appropriations account has referenced the TVPA. As a matter of policy and practice, however, we have treated the restrictions as applying to the types of funds made available or used to carry out the purposes of the TVPA.

The TVPA authorizes appropriations to the Secretary of State in section 113(c) for the following purposes:

(1) Bilateral assistance to combat trafficking

(A) Prevention (to carry out the purposes of section 106) (i.e., economic alternatives to prevent and deter trafficking; public awareness and information; border interdiction outside the United States; international media; and combating international sex tourism)

(B) Protection (to carry out the purposes of section 107(a)) (i.e., assistance for victims in other countries, such as the operation of shelters by NGOs; NGO provision of legal services; education and training for trafficked women and girls; reintegration into community; and family assistance and resettlement)

(C) Prosecution and meeting minimum standards (to carry out the purposes of section 134 of the Foreign Assistance Act of 1961) (i.e., assistance to foreign countries, directly, or through nongovernmental and multilateral organizations, for programs,

projects, and activities designed to meet the minimum standards for the elimination of trafficking outlined in section 108 of the TVPA).

(2) Voluntary contributions to advance projects aimed at preventing trafficking, promoting respect for human rights of trafficking victims, and assisting the Organization for Security and Cooperation in Europe participating states in related legal reform for such fiscal year.

(3) Preparation of annual country reports on human rights

Accordingly, funds which are made available to the Secretary of State in the Foreign Operations, Export Financing, and Related Programs Appropriations Act under the heading Bilateral Economic Assistance and which are allocated or used, in whole or in part, for the purposes of combating trafficking should be considered potentially affected by the restrictions in Section 113(g) of the TVPA. Consult GC or your RLA to seek legal advice on whether the restrictions apply to the funds in question.