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Deconstructing Government Contractor Anti-Trafficking Provisions

(Federal Acquisition Regulation Subpart 22.17 and Contract Clause 52.222-50 - Effective 2015)

Federal Contractor for Goods/Services (size/nature of FAR anti-trafficking provisions do not apply -Note: "Trafficking" is defined broadly to include but 18 U.S.C. § 545 (Smuggling) and 19 U.S.C. contract irrelevant)? (1) sex trafficking in which a commercial sex act is § 1307 (Forced Labor Prohibitions) might induced by force, fraud, or coercion, or in which the YES person induced to perform such act has not attained 18 years of age, and (2) the recruitment, harboring, Federal contractor, subcontractors, their employees transportation, provision, or obtaining of a person for and their agents prohibited from engaging in labor or services, through the use of force, fraud, or human trafficking including, for example: Contractors and subcontractors must create and coercion, for the purpose of subjection to involuntary post (1) at the workplace and (2) on their company Using forced labor servitude, peonage, debt bondage, or slavery website a formal compliance plan including, as Misleading/fraudulent recruitment practices appropriate: - Charging recruitment fees An employee awareness program about - Destroying, concealing, confiscating, or U.S. anti-trafficking policy otherwise denying employee access to his or A process for employees to report activity her identity docs inconsistent with zero-tolerance policy without - Failing to pay return transportation costs fear of retaliation - Failing to provide employment agreement (if A recruitment and wage plan required) in employee's native tongue and prior Available disciplinary actions for employees to employee's departure from home country that violate the policy Reciprocal expectations between company and supplier Contractors and their subcontractors contractually A housing plan agree to: **Potential Liability From Non-Compliance:** Preventative procedures for subcontractors - Cooperate fully with, and provide reasonable - Suspension of contract or contract payment Each contractor and subcontractor must formally access to, agencies conducting investigations certify it has a compliance plan in place, due Loss of award fee or termination of contract into, among other things, violations of this order diligence was conducted, the absence of Debarment (48 C.F.R. 9.406-2) - Self-report, among other things, activities that misconduct, and that, if misconduct was observed, are inconsistent with the requirements of this - 18 U.S.C. § 1001 (False Statement) that appropriate remediation and referral actions order or any other applicable law or regulation - 18 U.S.C. § 545 (Smuggling) were taken - 19 U.S.C. § 1307 (Forced Labor Prohibitions) - 31 U.S.C. § 3729 (False Claims Act) YES Contract for Services or Supplies that are not - Class action lawsuits off-the-shelf items that (1) exceed \$500,000 in NO value and (2) are to be performed outside U.S. Consumer advocacy/NGO actions