

NCBA CLUSA

TRAFFICKING IN PERSONS POLICY AND COMPLIANCE PLAN

1. **SCOPE:**

This policy and compliance plan applies to all NCBA CLUSA staff, executives, board of directors, consultants, volunteers, associated, or any other person conducting work on behalf of NCBA CLUSA, world-wide. These standards apply both during and after work hours.

Similarly, all subawardees, subcontractors, vendors, or others providers of goods and or services to NCBA CLUSA world-wide must have a policy and compliance plan related to trafficking in persons, or must agree to adhere to NCBA CLUSA's plan, which may be provided on request.

2. **DEFINITION:**

Trafficking in persons (TIP) is the use of force, fraud, or coercion to compel persons to provide labor or services or commercial sex. TIP involves exploitation of all types. TIP can include elements of recruiting, harboring, transporting, providing, or obtaining a person for the purpose of exploitation. The three most common forms of trafficking are:

1. Labor Trafficking,
2. Sex Trafficking, and
3. Child soldiering.

3. **BACKGROUND:**

The United States has long had a policy prohibiting Government employees and Federal Award Recipient personnel from engaging in trafficking in persons activities. Executive Order 13627, entitled "Strengthening Protections Against Trafficking in Persons in Federal Contracts", issued on Sept. 25, 2012 and title XVII, entitled "Ending Trafficking in Government Contracting". The 2013 National Defense Authorization Act (NDAA), enacted Jan. 2, 2013, greatly expanded the list of trafficking prohibitions and created a stronger framework to eliminate trafficking in persons from Government Awards.

4. **POLICY:**

Trafficking Prohibitions. The United States government has specifically identified nine trafficking prohibitions in FAR subpart 22.17, which also applies to Cooperative Agreements and Grants through ADS 303maa, and ADS303mab. Other funding organizations, such as UNHCR, UNDP, Foreign Governments, Private Foundations, etc.,

have similar anti-trafficking definitions, prohibitions, and compliance requirements. The specifically identified prohibitions are:

1. engaging in **severe forms of trafficking** (i.e. slavery in any form, transportation of persons illegally, recruiting transporting, hiring, or using child soldiers, etc.) during the period of the contract,
2. **procuring commercial sex acts** during the period of the contract, and
3. Using **forced labor** in the performance of the contract.
4. **Destroying, concealing**, confiscating or otherwise denying the employee access to its **identity documents** (e.g. passport, driver's license, etc.);
5. Using **misleading or fraudulent recruitment practices** (e.g. failing to disclose, in a format and language accessible to the worker, basic information; making a material misrepresentation regarding the key terms or conditions of employment, wages, work location, living conditions; using recruiters that do not comply with local labor laws, etc.);
6. Charging employees **recruitment fees**;
7. Failing to provide or pay for **return transportation** at the end of the employment, for an employee who is not a national of the country where the work is performed, and who was brought into the country to work on the Government contract;
8. Providing or arranging **housing** that fails to meet the host country housing and safety standards; and
9. **If required by law or contract**, failing to provide an **employment contract/document in writing** and in a language the employee understands. If the employee has to relocate to perform the work, the written work document must be provided to the employee at least 5 days prior to relocating. The work document must include details about the work description, wages, prohibition on charging recruitment fees, work location, etc.

The nine cumulative trafficking prohibitions summarized above, apply to **all** Cooperative Agreements, Sub-Awards, Contracts, **and** Subcontracts.

NCBA CLUSA's policy to

- a. prohibit all forms of human trafficking,
- b. comply with the requirements of US Government,
- c. comply with the requirements of all other Funders, so long as those requirements do not conflict with US Government requirements,
- d. monitor for anti-trafficking violations, and
- e. immediately report violations or suspected violations through the appropriate channels.

Certifications and Compliance Plan. All recipients of Federal Funds for activities performed outside the United States and valued at \$500,000 or more, subawardees, subcontractors, vendors, or other providers of goods or services must provide NCBA CLUSA, through the initial pre-award certification process, and through the annual certification process, a certification regarding its trafficking in persons compliance plan.

Minimum Compliance Plan

The US Federal Government require that each Award have a compliance plan, and that compliance plans be appropriate to the size and complexity of the Award and the nature and scope of its activities, including the number of non-U.S. citizens expected to be employed and the risk that the contract or subcontract will involve services/supplies susceptible to trafficking. This compliance plan is considered to meet the minimum requirement for compliance with Federal Rules. Each program implemented by NCBA CLUSA will be assessed for complexity and risk, and this compliance plan will be expanded through additional requirements if needed.

- I.** **AWARENESS** NCBA CLUSA will implement an awareness program of the nine prohibited trafficking activities and actions that will be taken against employees for any violation
- a. NCBA CLUSA will make available the trafficking in persons policy to all employees in an easily accessible location
 - b. NCBA CLUSA will provide annual training to its HQ, Expat, and TCN employees on the policy, it is expected that these personnel will provide further training to in-country personnel during site visits.
- II.** **RECRUITMENT** NCBA CLUSA will engage in ethical recruitment and employment practices that prevent forced or coerced labor. These practice will include:
- a. If Using recruitment company,
 - i. Using a recruitment company with trained employees,
 - ii. Using a recruitment company that does not charge recruitment fees to applicants,
 - iii. Using a recruitment company that follows local laws,
 - iv. Using a recruitment company that does not deny applicants access to personal and or identity documents, prevent free movement of applicants, coerces applicants, or otherwise violate the 9 trafficking prohibitions.
 - b. If conducting recruitment internally,
 - i. Not use deceptive recruitment practices,
 - ii. Not charge recruitment fees to applicants or employees,
 - iii. Apply a wage plan that meets applicable local laws and other requirements, or document the rationale for any variance,
 - iv. Not deny applicants or employees access to personal and or identity documents,
 - v. Not deny free movement of applicants or employees, coerce applicants, or otherwise violate the 9 trafficking prohibitions,
 - vi. Provide employment contracts to employees in a language the employee understands,
 - vii. Prove employment contract at least 5 days prior to relocation if relocation is required for employment,
 - viii. Provide an employment contract that include details about the work description, wages, prohibition on charging recruitment fees, and work location.

III. HOUSING PLAN NCBA CLUSA’s policy is to provide a living quarters allowance to qualified employees, generally only expatriates or third country nationals. It is the responsibility of these employees to secure their own living quarters, using this allowance to defray the cost of the living quarters. In the event NCBA CLUSA finds it necessary to provide quarters directly to an employee, regardless nationality, NCBA CLUSA will ensure the provided living quarters meet host-country housing and safety standards.

IV. MOBILIZATION AND DEMOBILIZATION NCBA CLUSA will provide return transportation to an employee to their home of record upon conclusion of their employment if they were transported to their work location under a Donor funded project. **NCBA CLUSA will not transport an employee to another location in lieu of home of record, as this could be construed to be an act of trafficking in persons.** If an employee obtains employment with another organization which will transport the employee to a new work location, that employee should provide proof of employment and transportation to NCBA CLUSA in order for NCBA CLUSA to show compliance with anti-trafficking requirements.

V. PREVENTION OF SUBAWARDEES, SUBCONTRACTORS, OR OTHER AGENTS NCBA CLUSA will take positive steps to prevent agents, subawardees and subcontractors at any level from engaging in trafficking activities, including

- a. Requiring annual certification regarding trafficking,
- b. Incorporating anti-trafficking language in subawards and subcontracts,
- c. Monitoring subawardees and subcontractors for trafficking violations.

5. MONITORING

NCBA CLUSA employees should monitor project offices, subawardees, subcontractors, vendors, etc., during regular work activities by being aware of activities, conditions, and warning signs of trafficking activities, and reporting through the appropriate channels.

Warning signs include, but are not limited to:

- Frequenting locations where sex workers are known to operate
- Child labor
- Child soldiers or security personnel
- Employees prevented from leaving work stations
- Employees prevented from leaving work location
- Work location exits locked or blocked, or other extreme security measures, especially measures that seem to be oriented inward as opposed to outward
- Employees forced to work more than legally restricted hours
- Employees living in same living conditions/dormitories
- Employees living at place of employment
- Employees prevented from leaving dormitories
- Employees seeming to adhere to scripted or rehearsed responses to social interactions
- Complaints about recruiting fees
- Complaints about personal or identity documents being held by employer
- Complaints about fraudulent recruitment practices, or being coerced into working

- Complaints about having to work off debts,
- Complaints about work compensation insufficient to cover employer mandated expenses (such as room and board)
- Signs of physical or emotional abuse, including bruises or other injuries in various stages of healing,

6. REPORTING

NCBA CLUSA personnel who suspect that NCBA CLUSA, Subawardee or subcontractors, vendors, consultants, etc., are engaging in trafficking, should report as follows:

- To the most senior employee in the department or project (i.e. Chief of Party, Regional Director, Vice President, CEO, CFO, etc), or
- To the Vice President of Compliance, or
- Via the anonymous whistleblower hotline at:
<https://thecompliancepartners.com/ncba/>
or
Calling a toll-free telephone line designated for NCBA CLUSA: 1-800-441-7149.

DO NOT CONFRONT POTENTIAL VIOLATORS!

Confronting of potential violators puts both the employee and the victims at risk. If there is a suspected violation, it is recommended to leave the area as soon as possible without arousing suspicion, then report immediately.

Once reported, NCBA CLUSA office of compliance will report to the appropriate funder authorities, and will implement an investigation using appropriate internal or external resources. NCBA CLUSA will report to appropriate legal authorities, taking into account advice provided by the appropriate country office employees and funder authorities.

US Government also requires that the Awardee/Subawardee or Contractor/ Subcontractor:

- (1) Immediately report and disclose to both the CO and IG** any credible information it receives from any source that alleges a trafficking violation. The information disclosed must be sufficient to identify the nature and extent of an offense and the suspected individuals. The contractor's report must also include any actions the contractor took against the offending employee, subcontractor or agent.
- (2) Provide timely and complete responses to Government** auditors' requests for documents;
- (3) Cooperate fully** in providing reasonable access to their facilities and staff to allow contracting agencies and other responsible Federal agencies to conduct audits or investigations to ascertain trafficking violations;
- (4) Protect all employees suspected of being victims or witnesses** to prohibited activities.
- (5) Post the "relevant contents of the compliance plan"** at the workplace and on the contractor's website (if one is maintained). However, if that posting is not practicable, the contractor must provide that info in writing to each worker.

7. VIOLATIONS

Any employee, consultant, volunteer, board of director member, or other agent of NCBA CLUSA suspected of or allegedly violating this policy will be suspended pending conclusion of an investigation into the allegations. Any employee, etc., found to be in violation of this policy will be terminated, and will be reported to the appropriate legal authorities.

Any Subawardee, subcontractor, contractor, consultant, vendor, or other entity providing services to NCBA CLUSA suspected of or allegedly violating this policy will have their activities suspended pending conclusion of an investigation into alleged trafficking activities. Any subawardee, etc., found to be in violation of this policy will be terminated, and will be reported to the appropriate legal authorities.

CONCLUSION

Trafficking in persons is a serious human rights violation, and contradicts the principles of the CLUSA approach. Everyone has a role to play in helping to prevent and stop human trafficking.