



U.S. Department
of Transportation
**Federal Aviation
Administration**

Memorandum

Subject: **ACTION:** Program Guidance Letter 08-03

Date:

FEB 20 2008

From: *ACTING* Manager, Airports Financial Assistance Division,
APP-500

Reply to
Attn. of:

To: PGL Distribution List

We are issuing this Program Guidance Letter implementing the requirements of the Trafficking Victims Protection Act. Please include the new grant Special Provision in all grants.

08-03 Trafficking Victims Protection Act

SOAR Code: varies

This Program Guidance provides the required Grant Special Condition that must be included in all Airport Improvement Program (AIP) grant agreements. It will be included in Appendix 7 of FAA Order 5100-38, Airport Improvement Program Handbook as Paragraph X.

Background:

On November 5, 2007 the Office of Management and Budget issued Memorandum M-08-03 implementing Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (TVPA). By including this Grant Special Condition in each grant agreement, FAA is complying with Executive Order 13333, which requires that FAA include a condition that implements the requirements of Section 106(g) of the TVPA. Section 106(g) is codified at 22 United States Code § 7104. The Special Grant Condition is required for grants to private entities (as defined in 2 CFR § 175.25(d)) or for grants to public entities if any funding from the grant could be provided to a private entity. This is the link to the memorandum: <http://www.whitehouse.gov/omb/memoranda/fy2008/m08-03.pdf>

This Special Grant Condition shall be included in all grants to privately-owned airports and to block grant states or other grants that may have private entities, including privately-owned airports as subrecipients.

X. TRAFFICKING IN PERSONS:

a. Provisions applicable to a recipient that is a private entity.

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.
2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity –
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—

- A. Associated with performance under this award; or
- B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 49 CFR Part 29.

b. Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity--

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either--
 - i. Associated with performance under this award; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at *49 CFR Part 29*.

c. Provisions applicable to any recipient.

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

1. “Employee” means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are

contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. “Private entity”:

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

ii. Includes:

A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

B. A for-profit organization.

4. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).