

**COMPLETE STATEMENT OF**  
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**DEPARTMENT OF THE ARMY**

**BEFORE THE**

**Committee on Oversight and Government Reform**  
**HOUSE OF REPRESENTATIVES**

**May 15, 2008**

Chairman Waxman and Members of the Committee, I am James C. Dalton, Chief of Engineering and Construction for the U.S. Army Corps of Engineers (Corps). Thank you for the opportunity to testify before you today concerning the methods used by the Corps of Engineers to reduce Defense Base Act insurance costs, the extent to which these methods have been successful and the lessons learned from these efforts.

DBA Insurance was established by Congress in 1941. As initially enacted, the Defense Base Act covered workers on military bases outside the United States. The Act was later amended to include public works contracts with the government for the building of non-military projects such as dams, schools, harbors, and roads abroad. A further amendment added enterprises revolving around the national security of the United States and its allies.

After September 11, 2001, the Department of Defense (DoD) received complaints from companies doing business in Iraq that rates for mandatory insurance increased from \$4 to over \$20 per \$100 of labor costs, and in some cases firms were unable to receive DBA insurance. These higher costs were experienced by firms independently purchasing DBA Insurance. Some small host-nation firms were unable to pay upfront minimum insurance premiums of \$15,000 to \$25,000. Minimum premiums did not take into account the duration of the contract, labor expended and length of time in the hostile environment.

In 2003, the Corps and the Office of the Secretary of Defense (OSD) agreed to conduct a Centrally Managed Defense Base Act Insurance Pilot Program, centralizing the management and acquisition of Defense Base Act insurance for Corps' contracts worldwide, and modeled on the U.S. Agency for International Development and Department of State.

The pilot objectives were:

- Make DBA Insurance affordable through economies of scale
- Leverage lessons learned under similar DBA Insurance programs undertaken by the U.S. Agency for International Development and the Department of State.
- Pool risks
- Centrally Manage DBA Insurance
- Develop a Business Case Analysis

This pilot, a series of two contracts, made the DBA Insurance carrier the party responsible for dealing directly with Corps' contractors requiring DBA insurance during performance of their contract. Insurance rates were based on category of labor and considered all risks, all possible geographic locations of contract performance, including hostile and non-hostile environments and safety considerations.

The pilot provided a single entry point for coverage and access to DBA insurance for all Corps' contractors and subcontractors at all tiers, no matter the business size or location of the firm requiring insurance. Insurance premiums were paid directly to the insurance carrier based on the rates in the Corps' DBA Insurance contract. Under the Pilot there were no minimum premiums by contract. When contractors independently acquired DBA Insurance coverage they could expect to pay minimum premiums of \$15,000 to \$25,000 per contract. This adversely affected overall contract pricing, and likely precluded some small and local business firms from supporting the Global War on Terrorism.

The first Corps' DBA pilot contract was solicited on a competitive best value basis and was awarded in November 2005, to the sole offeror, CNA Insurance. The term of the contract was one year, and provided coverage for services and construction labor at a premium of \$5.00 per \$100 of employee remuneration for services and \$8.50 per \$100 for construction labor. These rates were well below the 2005 Government

Accountability Office Report which stated that contractors performing in Iraq were paying DBA Insurance rates between approximately \$10.00 and \$21.00 per \$100 of employee's salary cost.

The Phase I Pilot contract premiums proved lower than GAO's report and the Corps continued to a Phase II Pilot contract to gather additional data for the business case. The Phase II Pilot contract was competitively solicited on a Lowest Price Technically Acceptable basis and again one offer was received from CNA Insurance. The proposed Phase II premiums continued to decline with the CNA premiums now \$3.50 per \$100 of employee remuneration for services and \$7.25 per \$100 of employee remuneration for construction. A Phase II Pilot Program contract was awarded to CNA Insurance on March 31, 2007. During performance of the contract two additional labor categories for security and aviation were added to the Phase II contract. The Corps also added standard insurance industry definitions for all current labor categories: services, construction, security and aviation. The standard definitions clarify the labor category applicable to the work performed in the contract and the rate applied for insurance.

In March of 2008 the Corps extended the Phase II contract with CNA Insurance until September 2008, to allow the Corps to solicit and award a follow-on DBA Insurance contract.

A major success for the Corps of centralized management of DBA Insurance is the ability to reach all tiers of subcontractors. The smallest subcontractor in Iraq has access to DBA Insurance coverage. Previously if the contractor couldn't meet the minimum payment of \$15,000 to \$25,000 we couldn't do business with them because DBA Insurance coverage is mandatory.

Some of our lessons learned from the DBA Insurance Pilot Program are:

- Two labor categories for services and construction were unduly restrictive and placed Information Technology Helpdesk workers in the same category of coverage as security guards. We added security and aviation to better define the labor categories working in a hostile environment.
- A “self-administering” DBA Insurance Program isn’t actually self administering, as Corps management is required for reporting, claims management, and enforcement of Corps contracting offices inclusion of centrally managed DBA requirements in contracts.
- Validation of savings/cost is not easily accomplished.

The Corps has begun working with the Army Audit Agency to analyze the results of the Corps’ Phase I and Phase II pilot outcomes and welcomes further collaboration on centralized managed DBA Insurance with HQDA and DoD.

### Summary

To close, I would like to thank you once again, Chairman Waxman, for allowing the Corps of Engineers the opportunity to appear before this Committee today. I will be happy to answer any questions you or Members of the Committee may have. Thank you.