



USAID
FROM THE AMERICAN PEOPLE

Guidelines for DBA Coverage for Direct and Host Country Contracts

An Additional Help document
for ADS Chapter 302

New Reference: 06/14/2007
Responsible Office: OAA/P
File Name: 302sap_061407_cd48

BACKGROUND: DESCRIPTION OF DEFENSE BASE ACT (DBA) COVERAGE

DBA coverage is worker's compensation insurance, providing that employees may collect in the event that an employee is injured while working on a contract financed by the U. S. Government and performed outside the U.S. DBA coverage also pays benefits to dependents of employees in the event that an employee is killed as a direct result of the employee's employment under an U.S. Government-financed contract. DBA coverage is required by statute (see 42 U.S.C. 1651, *et seq.*) for employees of contractors and subcontractors, regardless of the duration of their assignment. It is over and above any Department of State coverage. Subcontracts under USAID financed contracts are also included in the required coverage.

Personal Services Contractors (PSCs) are exempt from Defense Base Act coverage. PSCs are treated like direct-hire employees for worker's compensation purposes and are covered by the Federal Employees Compensation Act.

The current Defense Base Act **rate** does not apply to grants and cooperative agreements; however, recipients of grants and cooperative agreements **are** required to obtain Defense Base act coverage for the employees of contractors who are awarded contracts under the assistance instruments. Although the Defense Base Act **rate** does not apply to grants and cooperative agreements, recipients who desire to purchase DBA coverage may negotiate rates at the discretion of the insurance carrier.

WAIVER OF COVERAGE:

DBA insurance coverage is required for employees of contractors (and their subcontractors), unless a waiver has been obtained from the U.S. Department of Labor (See FAR 28.305). Blanket waivers from Defense Base Act insurance requirements have been issued by the Department of Labor for foreign nationals in over 100 countries in which USAID has or had programs. Foreign national employees covered by this waiver (and/or their employers) are exempt from the requirement to secure Defense Base Act Insurance. Foreign national employees and their employers should be aware that, even though they do not have to secure Defense Base Act coverage, foreign national employees must be provided worker's compensation benefits as prescribed in applicable foreign laws. However, the waivers do not apply to any employee who is:

1. A citizen of the United States;
2. A resident of the United States; or
3. Hired in the United States.

The DBA Waiver List at the end of this reference identifies all countries for which foreign national employees and/or their employers are exempt from the requirement to secure Defense Base Act coverage.

CONTRACT CLAUSES:

As prescribed in FAR 28.309 (a), the Contracting Officer must insert the clause at 52.228-3, Workers' Compensation Insurance (Defense Base Act), in solicitations and contracts when the Defense Base Act applies (see 28.305) and the following circumstances applies:

- (1) The contract will be a public-work contract performed outside the United States; or
- (2) The contract will be approved or financed under the Foreign Assistance Act of 1961 (Pub. L. 87-195) and is not excluded by FAR 28.305(b)(2).

**FAR 52.228-3 Workers' Compensation Insurance (Defense Base Act)
(Apr 1984)**

The Contractor shall (a) provide, before commencing performance under this contract, such workers' compensation insurance or security as the Defense Base Act (42 U.S.C. 1651, *et seq.*) requires and (b) continue to maintain it until performance is completed. The Contractor shall insert, in all subcontracts under this contract to which the Defense Base Act applies, a clause similar to this clause (including this sentence) imposing upon those subcontractors this requirement to comply with the Defense Base Act.

(End of clause)

In accordance with AIDAR 728.309, the USAID Contracting Officer shall add the supplemental coverage at AIDAR 752.228-3 to the clause specified in FAR 52.228-3.

752.228-3 Worker's Compensation Insurance (Defense Base Act).

As prescribed in 728.309, the following supplemental coverage is to be added to the clause specified in FAR 52.228-3 by the USAID contracting officer. (See FAR 52.228)

- (a) The Contractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between USAID and USAID's DBA insurance carrier unless the Contractor has a DBA self insurance program approved by the Department of Labor or has an approved retrospective rating agreement for DBA.
- (b) If USAID or the Contractor has secured a waiver of DBA coverage (see AIDAR 728.305-70(a)) for contractor's

employees who are not citizens of, residents of, or hired in the United States, the contractor agrees to provide such employees with worker's compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee's native country, whichever offers greater benefits.

(c) The Contractor further agrees to insert in all subcontracts hereunder to which the DBA is applicable, a clause similar to this clause, including this sentence, imposing on all subcontractors a like requirement to provide overseas workmen's compensation insurance coverage and obtain DBA coverage under the USAID requirements contract.

(End of clause)

POINT OF CONTACT: Gwendolyn Little, Office of Acquisition and Assistance, Evaluation Division (M/OAA/E), Phone: (202) 712-5473, E-mail: glittle@usaid.gov.

DEFENSE BASE ACT (DBA) WAIVER LIST

Albania	Haiti	St Lucia
Antigua	Honduras	St. Vincent
Armenia	Hungary	Senegal
Azerbaijan	India	Serbia
Bahamas	Indonesia	Seychelles
Bangladesh	Israel	Sierra Leone
Barbados	Italy	Slovak Republic
Belarus	Jamaica	Slovenia
Belize	Jordan	Somalia
Benin	Kazakhstan	South Africa
Bolivia	Kenya	Sri Lanka
Bosnia & Herzegovina	Korea	Sudan
Botswana	Kyrgyzstan	Swaziland
Brazil	Latvia	Syria
Bulgaria	Lebanon	Tajikistan
Burkina Faso	Lesotho	Tanzania
Burundi	Liberia	Thailand
Cambodia	Lithuania	Togo
Cameroon	Macedonia	Tonga
Cape Verde	Madagascar	Tunisia
Chad	Malawi	Turkey
Chile	Mali	Turkmenistan
Colombia	Mauritania	Uganda
Costa Rica	Mauritius	Ukraine
Cote d'Ivoire	Mexico	Uruguay
Croatia	Moldova	Uzbekistan
Czech Republic	Mongolia	Vietnam
Democratic Republic of the Congo	Montenegro	Western Samoa
Djibouti	Morocco	Yemen
Dominica	Mozambique	Yugoslavia
Dominican Republic	Namibia	Zambia
Ecuador	Nepal	Zimbabwe
Egypt	New Caledonia	
El Salvador	Nicaragua	
Equatorial Guinea	Niger	
Estonia	Nigeria	
Ethiopia	Oman	
Fiji	Pakistan	
Gambia	Panama	
Georgia	Papua New Guinea	
Ghana	Paraguay	
Grenada	Peru	
Guatemala	Philippines	
Guinea	Poland	
Guinea-Bissau	Portugal	
Guyana	Romania	
	Russian Federation	
	Rwanda	
	St. Christopher & Nevis	

302sap_061407_w071807_cd48