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# ADS Chapter 322

## Procurement of Insurance

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**Functional Series 300 – Acquisition and Assistance  
ADS 322 – Procurement of Insurance**

*This chapter was reformatted and edited for clarity. Office symbols were also updated.*

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## **ADS 322 – Procurement of Insurance**

### **322.1 OVERVIEW**

Effective Date: 05/31/2001

The objective of this ADS chapter is to provide policy directives and required procedures regarding insurance requirements for USAID-financed activities and USAID's competition requirement for procuring other insurance under direct contracts and subcontracts.

### **322.2 PRIMARY RESPONSIBILITIES**

Effective Date: 12/14/2006

**a. USAID Contracting Officers** are responsible for including appropriate insurance provisions in all acquisition instruments, where applicable.

**\*b. The Bureau for Management, Office of Acquisition and Assistance, Evaluation Division (M/OAA/E)** is responsible for disseminating information about the contracted providers for Defense Base Act (DBA) and ensuring that current information is made available worldwide.

**\*c. The Bureau for Management, Office of Acquisition and Assistance, Transportation Division (M/OAA/T)** is responsible for matters relating to marine insurance.

**d. Technical Officers at Missions** are responsible for monitoring cooperating country programs to ensure that all involved parties comply with USAID requirements and appropriate use of marine insurance loss proceeds.

### **322.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES**

Effective Date: 12/14/2006

#### **322.3.1 Defense Base Act (DBA) Insurance**

Effective Date: 12/14/2006

Except for Personal Service Contracts (PSCs) and contracts exclusively for the furnishing of materials or supplies, USAID-direct contracts and subcontracts involving performance overseas must provide for worker's compensation insurance as required by the Defense Base Act (DBA). DBA insurance requirements are mandatory for U.S. citizens, permanent residents, and any persons who are residing in the U.S., regardless of nationality, at the time they are hired or assigned to work overseas under a USAID contract.

\*Concerning the applicability of the DBA to third country nationals (TCNs) and cooperating country nationals, individuals from certain countries are exempt because USAID has obtained a blanket waiver from the U.S. Department of Labor. USAID must treat individuals from non-exempt countries as U.S. citizens for purposes of DBA

insurance coverage, unless USAID obtains a waiver from the Department of Labor. M/OAA/E is responsible for obtaining additional waivers of DBA requirements from the Department of Labor for third country nationals and cooperating country nationals, when necessary. Contractors must ensure that individuals for whom the DBA requirements are waived are covered by at least locally- or internationally-mandated levels of workers' compensation and war hazard insurance.

Procedures for DBA insurance and the current DBA waiver list are contained in [ADS 302](#).

### **322.3.2 Medical Evacuation Insurance (MEDEVAC)**

Effective Date: 05/31/2001

All U.S. citizens, U.S. permanent resident aliens, and TCNs working overseas under USAID-direct contracts and subcontracts, including PSCs, must have medical evacuation (MEDEVAC) coverage. (See [AIDAR 728](#) and [AAPD 06-01](#)) Accompanying dependents must also have coverage.

MEDEVAC insurance is not mandatory for grants, cooperative agreements, and host country contracts. Consistent with applicable cost principles, costs associated with medical evacuation insurance coverage may be allowable under these awards.

### **322.3.3 Marine Insurance**

Effective Date: 05/31/2001

It is the policy of USAID that all goods financed under contracts and agreements must be insured in U.S. dollars, or any other freely convertible currency, during ocean transportation, unless USAID agrees otherwise in writing. Marine insurance is generally optional for goods under CIPs; however, if the cooperating country discriminates against U.S. marine insurance providers, it is no longer optional, and the importer must obtain marine insurance. (See **322.3.3.1**) Insurance on CIP goods must also be in U.S. dollars or any other freely convertible currency. Importers are responsible, under CIPs, for deciding whether to secure marine insurance and whether to seek USAID financing of such insurance. USAID reserves the right to require marine insurance on shipments under CIPs.

Unless otherwise approved in the authorizing document, USAID may only finance premiums for marine insurance, including war risk, on USAID-financed commodities, if:

- a. The insurance is placed in a country included in the authorized geographic code in the instrument. If the authorized code is any code other than 000, the cooperating country itself must be authorized as an eligible source, in accordance with [ADS 310](#);
- b. The insurance is placed in accordance with the terms of the commodity purchase contract or the written instructions of the importer;

- c. The insurance covers, at a minimum, the period during which the commodities are in transit to the cooperating country;
- d. The premiums do not exceed the limitations contained in [USAID Reg. 1 \(22 CFR 201.68\)](#); and
- e. Loss payment proceeds are to be paid in U.S. dollars or other freely convertible currency.

### **322.3.3.1 Discrimination Against U.S. Marine Insurance Providers**

Effective Date: 12/14/2006

All Agency officials must adhere to the marine insurance discrimination policy as set forth in USAID Reg. 28 [\(22 CFR 228.23\)](#).

The following are procedures for resolving complaints of marine insurance discrimination:

\*a. Anyone with a specific complaint of discrimination must report it to M/OAA/T. M/OAA/T must refer complaints to the responsible program office in the Mission for review and investigation.

\*If the Mission's review discloses the existence of cooperating country practices which may indicate discrimination, the Mission notifies M/OAA/T by forwarding all pertinent documents and information. M/OAA/T reviews the file to determine whether discrimination exists. If M/OAA/T does determine that discrimination exists, it directs a letter, through the Mission, to the host country government, requesting that the host country government take action be taken to eliminate the discriminatory practice(s).

This letter must allow a reasonable length of time to correct the problem and must notify the host country government that, unless the discrimination is removed, all USAID-financed shipments must be covered by marine insurance and such insurance must be placed in the United States with a company or companies authorized to do business in any state of the United States. Foreign-owned insurance companies licensed to do business in the United States (by any state) are treated the same as comparable U.S.-owned companies.

\*b. If the cooperating country has not removed the discriminatory measure after the deadline set by USAID, M/OAA/T must invoke the sanctions set forth in this section. M/OAA/T must request USAID officials authorized to amend letters of commitment and other implementing instruments to require that all commodities purchased by the discriminating country with USAID funds be insured in the United States against marine risk, with a company authorized to do marine insurance business in the U.S.

### **322.3.3.2 General Average**

\*An asterisk indicates that the adjacent material is new or substantively revised.

Effective Date: 05/31/2001

Liability for assessments associated with general average is a standard clause incorporated into all marine cargo insurance policies and is not an issue with regard to most USAID-financed shipments. If the shipment is insured, the insurer, not USAID, is liable for all general average assessments. If the shipment is uninsured, the importer, as consignee, is liable for all general average assessments. USAID reserves the right to use program funds for payment of general average on uninsured shipments at the request of the host country government.

Importers of uninsured shipments must obtain the consent of the host country prior to using any available program funds for payment of general average contributions, provided that USAID has authorized their use and financed the ocean freight on the cargo in question.

### **322.3.3.3 Use of Loss Payments**

Effective Date: 05/31/2001

Under CIPs, when USAID finances marine insurance, loss payments exceeding \$10,000 must be reported to USAID. The geographic code originally authorized in the instrument remains the only eligible source for goods financed by loss payments to repair or replace insured goods.

For non-CIP transactions, the eligible source for goods financed by loss payments is geographic code 935 (See [Geographic Code Book](#) for a complete listing of geographic codes.)

Importers must report loss payments in accordance with [USAID Reg. 1 \(22 CFR 201.32\(c\)\)](#). If such loss payments are not used to procure any eligible commodities under the agreement, USAID must request a refund of these payments from the host country. Where USAID does not finance the marine insurance, and loss payments are not used in accordance with the agreement, USAID must also request a refund from the host country under the standard provision in loan and grant agreements that provides the basis for a refund. (See [ADS 350](#) and [Strategic Objective Grant Agreement \(SOAG\)](#))

### **322.3.4 Insurance for Other than Transportation or Transportation-Related Services**

Effective Date: 05/31/2001

It is the policy of USAID to require that all U.S. insurance companies have a fair opportunity to compete for non-transportation related insurance requirements that might arise under USAID-direct contracts and subcontracts.

**322.4 MANDATORY REFERENCES**

Effective Date: 12/14/2006

**322.4.1 External Mandatory References**

Effective Date: 12/14/2006

- a. [22 CFR 201.32](#)
- b. [22 CFR 201.68](#)
- c. [22 CFR 228.23](#)
- \*d. [48 CFR 728](#)
- e. [Foreign Assistance Act of 1961, as amended, \(FAA\) Section 604\(d\), Marine Insurance](#)
- \*f. [42 U.S.C. 1651, \(Defense Base Act\)](#)

**322.4.2 Internal Mandatory References**

Effective Date: 05/31/2001

- a. [AAPD 06-01, Medical Evacuation Insurance](#)
- b. [ADS 302, USAID Direct Contracting](#)
- c. [Geographic Code Book](#)

**322.4.3 Mandatory Forms**

Effective Date: 05/31/2001

**322.5 ADDITIONAL HELP**

Effective Date: 05/31/2001

- a. [ADS 350](#)
- b. [Strategic Objective Grant Agreement \(SOAG\)](#)

**322.5.1 Optional Forms**

Effective Date: 05/31/2001

\*An asterisk indicates that the adjacent material is new or substantively revised.

**322.6 DEFINITIONS**

Effective Date: 12/14/2006

The terms and definitions listed below have been included into the ADS Glossary. See the [ADS Glossary](#) for all ADS terms and definitions.

**Commodity Import Programs (CIPs) (See Chapter 312)****cooperating country (See also host country and local country)**

The country receiving USAID assistance. (Chapters 305, 322, 495)

**cooperating county national (CCN)**

An individual who is a cooperating country citizen or a non-cooperating country citizen lawfully admitted for permanent residence in the cooperating country. (ADS 302, 322)

**Defense Base Act Insurance**

Worker's compensation insurance for contractor employees working overseas; required by statute (the Defense Base Act) for all contractors and subcontractors, regardless of the duration of their assignment. Not applicable to Personal Service Contracts (PSCs), who are covered by the Federal Employees Compensation Act. (Chapter 322)

**discrimination**

Discrimination in marine insurance exists when a cooperating country takes actions which hinder private importers in USAID transactions from making cost, insurance, and freight (c.i.f.) and cost and insurance (c. and i.) contracts with U.S. commodity suppliers, or actions which hinder importers in instructing such suppliers to place marine insurance with companies authorized to do business in the United States. Discrimination does not exist in either of the following situations: when a cooperating country, when importing for itself, elects not to use USAID dollars for marine insurance but instead follows a policy of self-insurance or insures with non-USAID funds; or when a cooperating country insures public sector procurements locally with a government-owned insurance company. (Chapter 322)

**\*freely convertible currency**

Any currency or form of money that is in public circulation that can be quickly and easily bought and sold for other currencies. (Chapter 322)

**general average**

A doctrine of marine law applicable to all ocean shipments whereby, when part of a marine cargo or part of the ship is deliberately sacrificed in the interest of saving the whole, owners of the sacrificed portion are entitled to contributions from the owners of the saved portion of the cargo and the ship. (Chapter 322)



**host country (See also cooperating country)**

The country in which the employing Mission is located and the country for whose benefit a USAID program is being implemented. (Chapters 301, 305, 311, 322, 495)

The country in which a USAID-funded activity takes place. (Chapters 200-203, 253, 301, 305, 311, 322, 495)

**\*loss payments**

Payments made by marine insurance carriers to the insured party to cover losses.

**MEDEVAC Insurance**

Insurance to cover the cost of medical evacuation of USAID contractors and their dependents; applicable to all U.S. citizens, U.S. permanent resident aliens, and third country nationals. Cooperating country nationals are not eligible. (Chapter 322)

**placed in**

The term "placed in", as used concerning marine insurance, refers to the place where the insurance is purchased. Thus, marine insurance must be "placed in" an eligible source country. To be placed in an eligible source country, two conditions must be met: payment of the premium must be made to an insurance company in an eligible source country; and the policy must be issued by an insurance company located in an eligible source country. (Chapter 322)

**third country national (TCN)**

An individual who is neither a cooperating country national nor a U.S. national, but is a citizen of a country included in Geographic Code 935 (see 22 CFR 228.3) (Chapters 302, 322)

**\*war hazard insurance**

Insurance which provides compensation for the injury, disability, death, or enemy detention of employees of contractors with the United States, as defined by the War Hazards Insurance Act.

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