



Loyola Law School &
U. S. Department of Labor
OWCP
DBA Conference
October 2008

What Insurance is Needed and How to Buy It

John Chamberlain

Office of Workers' Compensation Programs

Division of Longshore & Harbor Workers' Compensation

Panel

John Chamberlain

Office of Workers' Compensation Programs

Division of Longshore & Harbor Workers' Compensation

Mark Reinhalter

Counsel for Longshore

Office of the Solicitor, Washington, DC

Christopher Moody II

Executive Vice President

Moody Insurance Worldwide, Clarksburg, MD

Who is Responsible to Buy Insurance?

Employers

→ Subcontractors

→ Subordinate contractors

The responsibility remains with the employer whether a broker or agent is used or not.

Some companies will only accept business through a broker or agent.

Who is NOT responsible for Insurance

- The broker or agent
- The contracting officer
- The contracting agency
- The Department of Labor
- The State Assigned Risk Pool

Single Source Contracts

Some agencies have arranged single source insurance for all or some of their contracts.

This is a matter for the agency in question not for the Department of Labor.

Multiple Contracts

Some employers have concurrent contracts with different agencies. They may need different policies with different insurers. It is quite possible that workers for the same employer may be injured in the same incident and be covered by different insurance policies.

Short Contracts

There is no exception from the provisions of the Act for “short trip” overseas, for “only attending a meeting”, by an executive (“not a worker”), “overseeing, not working”.

Even a CEO is an employee, and ALL employees are covered.

Minimum Premiums

Premiums are not set by, nor regulated by the Department of Labor. Many companies will have a minimum for this, as for any other, insurance. Single source contracts will not normally call for a minimum premium.

Can the cost of the Insurance be reimbursed?

The manner in which the employer is compensated is defined by the contract.

If there is a single source insurance the employer must use it.

Waivers

A waiver request should be sent by the Labor Advisor for the Agency requesting it. It should not be sent by the contractor, their broker, or the contracting officer.

Waivers

The waiver will only cover workers who are covered by another national or provincial workers' compensation act for the entirety of their claim, without exclusions for war risks, nuclear, biological, chemical or radiological or any other exclusions.

Mistaken Reliance on a “Waiver”

If someone believes that there is, has been told that there is, or thinks there ought to be a waiver for any particular contract or location, they are **NOT** excused from their obligations under the Act. Nor are they excused if their subcontractor believed, were told or thought the same.

Private Insurance Programs

Private Insurance Programs may supplement, but cannot substitute for the mandatory DBA cover.

Payments made under a private insurance cannot be offset against DBA under §3(e).

Laws of Other Countries

If there is a concurrent remedy for foreign nationals under a local workers' compensation act, there will be a credit under § 3(e).

Costs not Covered by the DBA

If an employer wishes to provide cover for items not covered by the DBA, such as life insurance for relatives not covered as dependants under the Act, these benefits are separate from the DBA.