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Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance

AAPD 22-01, Revision 01

Defense Base Act (DBA) Insurance

Issued: **January 12, 2023**

AAPDs provide information of significance to all Agency personnel and partners involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. AAPDs may be used to implement new requirements on short notice, pending formal amendment of acquisition or assistance regulations. Each AAPD is effective as of the issuance date on its cover page unless otherwise noted elsewhere in the AAPD guidance; the directives remain in effect until the specified expiration date (if any) or M/OAA/Policy issues a rescission.

This AAPD is:

New Replaces: AAPD 22-01

Category:

Acquisition Assistance PSCs

This AAPD applies to:

Solicitations New awards Existing awards
 Modification required

This AAPD precedes changes to:

FAR _____ AIDAR _____ CFR _____
 ADS _____ Other _____ No change to regulations

Clause/Provision:

New Provision/Clause Provided Herein Available in GLAAS

Contains a deviation? No

Yes: #M-OAA-DEV-AIDAR-22-10c effective until: 06/09/24

Mark A. Walther, Director, M/OAA

I. **Purpose**

This AAPD provides Defense Base Act (DBA) insurance rates and contact information for USAID's DBA insurance carrier. **AAPD 22-01 was originally issued on June 10, 2022; this Revision 1 clarifies "Note 1" below regarding the calculation of the DBA rates, with no other changes to the AAPD content or policy.**

In addition, this AAPD contains information and guidance regarding AIDAR 752.228-3, ("Worker's Compensation Insurance (Defense Base Act)"), which has been revised through a class deviation. The full text of the deviated AIDAR 752.228-3 clause can be found in **Attachment 1**. Use of this deviated AIDAR clause is authorized through the approval of Class Deviation No. M-OAA-DEV-AIDAR-22-10c.

Historically, in addition to AIDAR 752.228-3, contracts contained a separate "Defense Base Act Insurance" clause, found in Section H of contracts, with the specific rates and contact information for USAID's DBA insurance carrier. The purpose of this deviated AIDAR 752.228-3 clause is to simplify the process by directing contractors to USAID's website for this information, removing the need for individual contracts to specify those details. This also eliminates the need for multiple future contract modifications to address any changes in the rates or contact information for USAID's DBA insurance carrier.

This AAPD is effective as of **June 10, 2022** and continues in effect until June 09, 2024 unless rescinded earlier.

II. **Required Actions**

For existing contracts that include AIDAR 752.228-3, as prescribed in AIDAR 728.309, Contracting Officers (COs) must modify each affected contract to:

- Remove any references to specific rates or contact information for *any* DBA insurance carrier. For example, if there is a "Defense Base Act Insurance" clause in Section H of the contract that details rates and contact information, this clause should be removed from the contract.
- Replace AIDAR 752.228-3 with the deviated AIDAR 752.228-3 clause.

COs may make these changes when next modifying affected contracts; however, COs must modify all affected contracts **no later than October 31, 2022**.

Attachment 2 contains sample language that COs may adapt for these contract modifications.

For new contracts, COs must ensure those contracts are awarded with the deviated AIDAR 752.228-3 clause, as prescribed in AIDAR 728.309, with no references to any specific rates or contact information for any DBA insurance carrier.

For new solicitations, COs must ensure those solicitations are issued with the deviated AIDAR 752.228-3 clause, as prescribed in AIDAR 728.309, with no references to any specific rates or contact information for any DBA insurance carrier.

III. Background

DBA insurance is worker's compensation coverage for employees in the event they are injured while working on a contract financed by the U. S. Government performed outside the United States. 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 a contract financed by the U.S. Government. 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. Subcontractors under USAID-financed contracts must also obtain coverage. USAID contractors and subcontractors must possess DBA coverage before their employees arrive in country and commence work on the contract. Contractors and subcontractors must maintain the insurance coverage until covered employees complete their overseas performance under the contract.

In accordance with [ADS 303](#), DBA does not apply to grants and cooperative agreements, including grants under contract, or to subawards under these assistance instruments. Recipients that desire to purchase DBA coverage may negotiate rates at the discretion of the insurance carrier. However, recipients must require contractors who are awarded procurement contracts under the assistance instruments to obtain DBA coverage for their employees performing services overseas.

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

USAID policy concerning DBA insurance requirements is available in [ADS 302](#). Answers to Frequently Asked Questions (FAQs) about DBA insurance may be found on the Department of Labor's website at: <https://www.dol.gov/agencies/owcp/dlhwc/FAQ/DBAFags>.

IV. Guidance

A. USAID's DBA Insurance Carrier

When required by AIDAR 752.228-3, contractors must procure DBA insurance pursuant to the terms of the contract between USAID and USAID's DBA insurance carrier, unless a contractor has a DBA self insurance program approved by the Department of Labor or has an approved retrospective rating agreement for DBA.

Pursuant to ADS 302, this AAPD provides details regarding the rates and contact information for USAID's DBA insurance carrier. The current USAID DBA insurance carrier is **Starr Indemnity & Liability Company (Starr)** under Contract No. 7200AA22C00029 awarded on May 16, 2022.

Beginning June 15, 2022, all new DBA insurance policies and renewals of existing policies must be procured through Starr. DBA insurance policies procured prior to June 15, 2022 through USAID's previous DBA insurance carrier are not required to be canceled or transitioned to Starr; those policies may remain in place until their expiration dates.

B. Rates

1. Categorization of Employees

Starr Indemnity & Liability Company categorizes employees using the following descriptions:

- **Services Employees** (excluding Security Employees, Construction Employees, and Aviation Employees): Workers, either professional (e.g., registered professional engineers, licensed medical personnel, etc.) or non-professional, whose efforts are to accomplish discrete, often recurring, tasks that are not intended to result in an end-item of supply or a complete and useable facility. Such workers include, but are not limited to, information technology systems operators, consultants in any discipline, unarmed security personnel, architects, office administrators, researchers, cafeteria workers, nurses, maintenance personnel, drivers, housekeepers, medical technicians, groundskeepers, hospital administrators, doctors, nurses, etc.

- **Construction Employees:** Workers whose efforts are customarily associated with construction projects for complete and usable facilities or complete and usable alterations to existing facilities. Such workers include, but are not limited to, laborers, equipment operators, electricians, carpenters, painters, welders, concrete workers, steel workers, roofers, interior finishers, plumbers, glazers, etc.
- **Security Employees:** Workers who are armed and charged with the security of specific persons; property and/or facilities, including movement or transportation of persons and/or property between secure locations.
- **Aviation Employees:** For contracts that include aviation, ground crew shall be categorized as Construction, and flight crew shall be categorized as Security.

Note 1: For purposes of Contract No. 7200AA22C00029, employee salary includes wages, meaning the money rate at which the service rendered by an employee is compensated by an employer under the contract of hiring in force at the time of the injury, including the reasonable value of any advantage which is received from the employer and included for purposes of any withholding of tax under subtitle C of the Internal Revenue Code of 1954 [26 USC §§ 3101 et seq.] (relating to employment taxes). The term wages does not include fringe benefits, including (but not limited to) employer payments for or contributions to a retirement, pension, health and welfare, life insurance, training, social security or other employee or dependent benefit plan for the employee's or dependent's benefit, or any other employee's dependent entitlement.

Note 2: The Secretary of Labor's current National Average Weekly Wage (NAWW) shall be used as the maximum applicable salary to determine premium rates. USAID limits the maximum compensation rate to claimants to 200 percent of the NAWW. The current NAWW can be found at <https://www.dol.gov/agencies/owcp/dlhwc/NAWWinfo>.

2. Rates for Base Years (Two Years)

Contract No. 7200AA22C00029 contains two years in the Base, with the following rates:

Base Years (Two Years: May 16, 2022 through May 15, 2024)

CLIN	DESCRIPTION	PRICE	APPLICATION
001A	SERVICES	\$0.75	Per \$100 of employee salary
001B	CONSTRUCTION	\$2.75	Per \$100 of employee salary
001C	SECURITY	\$5.80	Per \$100 of employee salary

3. Rates for Option Years

Contract No. 7200AA22C00029 contains three one-year options periods. This AAPD will be updated with the option year pricing if/when those option periods are exercised.

C. Obtaining DBA Coverage

Contractors must apply for coverage directly to Starr Indemnity & Liability Company through its agent, Marsh McLennan Agency (MMA), using any of the following methods:

1. Website

There is a website with the option to print a PDF application form and submit it or complete an online application. The link to the website is:

<https://www.starr.com/Insurance/Casualty/Defense-Base-Act/USAID---Defense-Base-Act>

2. Email

An application form can be emailed to: USAID@marshmma.com

3. Additional Contacts

Direct contacts for Starr Indemnity & Liability Company and its agent, Marsh MMA, are listed below. These contacts are available for guidance and question regarding the required application form and submission requirements:

Tyler Hlawati (Starr)
tyler.hlawati@Starrcompanies.com
Telephone: 646-227-6556
Cell phone: 347-326-1357
399 Park Ave, New York, NY 10022

Bryan Cessna (Starr)
bryan.cessna@starrcompanies.com
Telephone: 302-249-6780
399 Park Ave, New York, NY 10022

Mike Dower (Marsh MMA)
mike.dower@marshmma.com
Telephone: 703-813-6513
5500 Cherokee Avenue, Suite 300, Alexandria, VA 22312

Diane Proctor (Marsh MMA)
diane.proctor@marshmma.com
Telephone: 703-813-6506
5500 Cherokee Avenue, Suite 300, Alexandria, VA 22312

D. Notice of Exclusion of Medical Evacuation Coverage

Pursuant to [AIDAR 752.228-70](#), medical evacuation insurance is a separate insurance requirement for overseas performance of USAID contracts; the Defense Base Act insurance does not provide coverage for medical evacuation.

E. Waivers for Third Country and Local Nationals

The list of countries with active DBA waivers is available at <http://www.dol.gov/owcp/dlhwc/dbawaivers/dbawaivers.htm>. In accordance with [ADS 302](#), Missions may obtain a country-based waiver by sending a request to M/OAA Evaluation Division at dbawaiverrequests@usaid.gov.

V. Points of Contact

COs may direct their questions about this AAPD to [Ask M/OAA Policy](#). Specific questions regarding the DBA insurance carrier (Contract No. 7200AA22C00029) may be directed to the COR, Christopher Frost, M/OAA/Evaluation (cfrost@usaid.gov),

202.916.2579) or the ACOR, John Pittman, M/OAA/Evaluation (jpittman@usaid.gov, 202.916.2591).

VI. Attachments

Attachment 1: Text of Deviated AIDAR 752.228-3

Attachment 2: Suggested Modification Language

Attachment 1: Text of Deviated AIDAR 752.228-3

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.

Worker's Compensation Insurance (Defense Base Act) (DEC 1991) [(DEVIATION JUN 2022)]

Class Deviation No. M-OAA-DEV-AIDAR-22-10c

In addition to the requirements specified in (48 CFR) FAR 52.228-3, the Contractor agrees to the following:

(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. **The rates and contact information for USAID's DBA insurance carrier are published in an Acquisition & Assistance Policy Directive found on USAID's website:**

<https://www.usaid.gov/work-usaid/resources-for-partners>. Alternatively, the Contractor can request the rates and contact information from the Contracting Officer.

(b) If USAID or the Contractor has secured a waiver of DBA coverage (see (48 CFR) 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 **worker's** compensation insurance coverage and obtain DBA coverage under the USAID requirements contract.

Attachment 2: Suggested Modification Language

This modification makes the following changes:

- 1) Delete Section H.X (“DEFENSE BASE ACT (DBA) INSURANCE”) in its entirety.
- 2) Replace AIDAR 752.228-3 (DEC 1991) with the following:

AIDAR 752.228-3 Worker’s Compensation Insurance (Defense Base Act) (DEC 1991) [(DEVIATION JUN 2022)]

Class Deviation No. M-OAA-DEV-AIDAR-22-10c

In addition to the requirements specified in (48 CFR) FAR 52.228-3, the Contractor agrees to the following:

(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. The rates and contact information for USAID’s DBA insurance carrier are published in an Acquisition & Assistance Policy Directive found on USAID’s website:

<https://www.usaid.gov/work-usaid/resources-for-partners>. Alternatively, the Contractor can request the rates and contact information from the Contracting Officer.

(b) If USAID or the Contractor has secured a waiver of DBA coverage (see (48 CFR) 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 worker’s compensation insurance coverage and obtain DBA coverage under the USAID requirements contract.