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Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance Issued: Mar 11, 2019

AAPD 17-01 - REVISED

Defense Base Act (DBA) Insurance for 2015-2020

Subject Category: Acquisition Management*
Type: POLICY

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. Also, AAPDs may be used to implement new requirements on short-notice, pending formal amendment of acquisition or assistance regulations.

AAPDs are EFFECTIVE AS OF THE ISSUED DATE unless otherwise noted in the guidance below; the directives remain in effect until this office issues a notice of cancellation.

This AAPD: Is New Replaces/ Revises CIB/AAPD No: 17-01

Applicable to:

- Existing awards; Modification required
 - No later than
 - As noted in guidance below*
- RFPs/RFAs issued on or after the effective date of this AAPD; all other Pending Awards, i.e., 8(a), sole source, IQC
- Other *Applies to assistance as stated in the Background Section of the AAPD

Precedes change to:

- AIDAR Part(s) Appendix
- USAID Automated Directives System (ADS) Chapter
- Code of Federal Regulations
- Other
- No change to regulations

New Provision/Clause Provided Herein: If checked, scheduled update to GLAAS:

/s/
Mark Walther

1. **PURPOSE:** This revised AAPD:

1) Provides the current “Security” rate as determined in accordance with Notes 1 through 3 of the “RATES” section 3.A. The current “Security” rate remains unchanged until further revised.

2) Updates the Points of Contact in Section 4.

All other information remains the same.

Required Action: Contracting Officers (COs) must use the DBA rates and contact information in this AAPD in all new solicitations and awards. COs must also update the DBA information in existing awards, as applicable, when next modifying those awards.

2. **BACKGROUND:** DBA coverage is worker's compensation insurance, providing that employees may collect in the event 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. 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 or to subawards under these instruments. However, recipients who desire to purchase DBA coverage may negotiate rates at the discretion of the insurance carrier. Recipients must require contractors who are awarded procurement contracts under the assistance instruments to obtain DBA coverage for their employees performing service overseas.

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.

Answers to Frequently Asked Questions about DBA insurance may be found on the Department of Labor's website at

<http://www.dol.gov/owcp/dlhwc/FAQ/DBAFaqs.htm>. Agency policy concerning DBA insurance requirements is found in ADS 302.

3. **GUIDANCE**: Pursuant to ADS 302, this AAPD announces that USAID executed contract # AID-OAA-C-16-00015 for DBA insurance with AWAC. The rates in this AAPD were effective December 1, 2015.

A. RATES

Contract Year	Period of Performance	Services	Construction	Security
Base Period	12/1/15 – 11/30/17	\$2.00	\$4.50	\$7.50
Option 1	12/1/17 – 11/30/18	\$2.00	\$4.50	\$7.50
Option 2	12/1/18 – 11/30/19	\$2.00	\$4.50	\$7.50
Option 3	12/1/19 – 11/30/20	\$2.00	\$4.50	\$7.50 unless further revised

Security rate calculation for option periods:

For Option Periods 1, 2 and 3, the percentage of USAID security payroll would be measured as of the last day of the preceding period (i.e. the base period or the immediately preceding option period), which is referred to as the “measurement date”.

- 1) If at the measurement date, the percentage of USAID security payroll remains between 0-10.0% of total payroll, the security rate in the next option period will be \$7.50/\$100 employee remuneration.
- 2) If at the measurement date, the percentage of USAID security payroll is above 10.0% to 25.0% of total payroll, the security rate in the next option period will be \$10.00/\$100 employee remuneration.
- 3) If at the measurement date, the percentage of USAID security payroll exceeds 25.0% of total payroll, the security rate in the next option period will be \$12.50/\$100 employee remuneration.
- 4) ***The term “wages” means 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 employee taxes). The term wages does not include fringe benefits, including (but not limited to) employer payments for or contribution 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.***

Maximum rate of compensation shall not exceed 200 per centum of the applicable national average weekly wage (NAWW) as calculated by the Secretary of Labor. The current NAWW can be found at <http://www.dol.gov/owcp/dlhwc/nawwinfo.htm>.

- 5) The new rate structure aligns DBA rates to the likelihood that specific types of contracts will incur different frequency of DBA payouts and of differing dollar amounts. Those having greater risk pay greater premiums. Those with anticipated lower risk pay lesser premiums. The concept is to associate specific costs to a contract predicated upon the potential DBA risks under the same contract. The risk is predicated on the nature and inherent danger of certain categories of contracts (and performance under those awards).
- 6) For contracts that include Aviation, ground crews shall be categorized as Construction, and flight crew shall be categorized as Security.

Upon the Option Year being exercised, the contractor must confirm in writing, the security payroll percentage as of the measurement date of the preceding period of performance to the CO.

This AAPD will be amended within thirty (30) calendar days of the exercise of an option to provide the new "Security" rate as determined in accordance with Notes 1 through 3 above. In the interim between exercise of an option and the amendment to the AAPD, COs may obtain the rate from the agent listed in Section B below.

B. OBTAINING DBA COVERAGE

Contractors must apply for coverage directly to AON Risk Insurance Services Inc., the agent for AWAC DBA Insurance. For instructions on the required application form and submission requirements, contact the following office:

AON Risk Insurance Services West, Inc.
2033 N. Main St., Suite 760
Walnut Creek, CA 94596-3722

Hours: 8:30 A.M. to 5:00 PM, Pacific Time

Primary Contact: Fred Robinson
Phone: (925) 951-1856
Fax: (925) 951-1890
Email: Fred.Robinson@aon.com

C. 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.

D. 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.

4. **POINTS OF CONTACT:** COs may direct their questions about this AAPD and/or DBA contract # AID-OAA-C-16-00015 to the COR, Christopher Frost, M/OAA/Evaluation, at telephone # (202) 567-5376, email: cfrost@usaid.gov; or the ACOR, Brian Ellis, at telephone # (202) 567-4093, email: bellis@usaid.gov.