

## **Defense Base Act (DBA) Insurance Frequently Asked Questions**

### **1. What is the Defense Base Act?**

The Defense Base Act, 42 U.S.C. §§ 1651-54, is an extension of the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. §§ 901-50, requiring all U.S. government contractors and subcontractors to secure workers compensation insurance for their employees performing work overseas.

### **2. What coverage does Defense Based Act (DBA) insurance provide?**

The Defense Base Act provides disability, medical, and death benefits to covered employees injured or killed in the course of employment.

### **3. Is DBA mandatory?**

Yes, DBA insurance is mandatory for all U.S. government contractors and subcontractors of any tier performing work outside the U.S. unless there is an active DBA insurance waiver (more on that below).

Failure of any contractor or any subcontractor of any tier to maintain DBA insurance in accordance with the act can result in civil and criminal fines and penalties for the prime contractor company and its President, Secretary, and Treasurer.

### **4. What is a DBA insurance waiver and when does it apply?**

The Secretary of Labor may waive the application of the Defense Base Act with respect to any contract, work location, or class of employees. The request for waiver must be made by the government agency to the Department of Labor (DOL), OWCP. It is Department of Labor policy that the waiver does not apply to citizens or legal residents of the U.S. or to employees hired in the U.S. Once granted, the waiver is only valid if alternative workers' compensation benefits are provided to the waived employees pursuant to applicable local law.

Current active geographic waivers for local national employees who are covered by a valid alternative workers compensation system can be found at:

[Active and Archived DBA Waivers - By Expiration Date | U.S. Department of Labor \(dol.gov\)](#)

### **5. When do subcontractors need to purchase DBA?**

Subcontractors of any tier must purchase DBA insurance when performing work under a U.S. government contract outside the U.S. unless a valid DBA waiver is in place.

Please refer to the [DBA Insurance Requirement for Subcontractors](#) for assistance with determining if the subcontractor must purchase DBA insurance.

## **6. Do non-US based companies need to purchase DBA insurance?**

Yes, the Defense Base Act applies to both U.S. and local companies. DBA insurance waivers only apply to local nationals in countries with current waiver (per: [Active and Archived DBA Waivers - By Expiration Date | U.S. Department of Labor \(dol.gov\)](#) who are currently covered under another local valid workers compensation insurance program.

## **7. Our subcontractor told us they already have local insurance for their staff. Is that the same as DBA?**

No, local insurance may be available and/or required by local regulation, but it does not take the place of DBA insurance. If there is a DBA insurance waiver in place (See question 4) and the local staff are covered by an alternate local insurance, then DBA Insurance is waived for those local staff members. Please note the local insurance will likely provide different benefits than DBA insurance.

## **8. Where to subcontractors purchase DBA insurance?**

When work is under a USAID contract, subcontractors must procure coverage through the sole source USAID DBA insurance program with Starr Indemnity and Liability Company through Marsh MMA insurance broker. To obtain coverage, subcontractors must contact: [USAID@marshmma.com](mailto:USAID@marshmma.com).

When work is under a contract with U.S. government agency other than with USAID, subcontractors must procure coverage through an insurer authorized by Department of Labor to write DBA insurance. While DBA insurance is statutory coverage and the coverage available through any authorized insurer will satisfy the requirement, there is no sole source program so the insurer willingness to write coverage and rates charged by insurer will vary.

## **9. What is the cost of DBA insurance?**

Current USAID negotiated program rates are:

DBA Rates per \$100 of remuneration*:	Services	\$0.75
	Construction	\$2.75
	Security	\$5.80

\*Remuneration for DBA includes salary plus overseas recruitment incentive, post differential, and danger pay, but excludes per diem, housing/travel/education/other misc. allowances. DBA rates for non-USAID contracts vary based on insurer and contractor risk profile.

## **10. How do you file a claim for benefits under DBA?**

Subcontractor employees must report injuries per their company procedures.

## **11. Who determines whether a claim submitted under DBA is covered?**

The insurer investigates and determines compensability for a reported claim. The DBA claim process is overseen by The U.S. Department of Labor, Office of Workers' Compensation

Programs (OWCP), Division of Longshore and Harbor Workers' Compensation, which administers the Defense Base Act, ensuring that workers' compensation benefits are provided for covered employees promptly and correctly.

**12. We are awarding a fixed price subcontract and are buying a deliverable and not labor. Is DBA still required?**

DBA is required whenever work is being performed outside the U.S. under a U.S. government contract. If the item being purchased is solely a product with no associated services being performed, then DBA is not required. However, if work is being performed (and therefore injury could potentially happen arising out of that work), then the DBA insurance requirement would apply.

**13. Where can anyone find out more information about the Defense Base Act and DBA insurance?**

More information is available at the U.S. Department of Labor website for DBA:

<https://www.dol.gov/agencies/owcp/dlhwc/lbdba>