Subpart 728.3—Insurance

Parent topic: PART 728—BONDS AND INSURANCE

728.305-70 Overseas worker's compensation and war-hazard insurance—waivers and USAID insurance coverage.

(a) Upon the recommendation of the USAID Administrator, the Secretary of Labor may waive the applicability of the Defense Base Act (DBA) with respect to any contract, subcontract, or subordinate contract, work location, or classification of employees. Either the contractor or USAID can request a waiver from coverage. Such a waiver can apply to any employees who are not U.S. citizens, not residents of, or not hired in the United States. Waivers requested by the contractor are submitted to the contracting officer for approval and further submission to the Department of Labor, which grants the waiver. Application for a waiver is submitted on Labor Department Form BEC 565. USAID has a number of blanket waivers already in effect for certain countries that are applicable to its direct contracts with contractors performing in such countries. Where such waivers are granted from coverage under the DBA, the waiver is conditioned on providing other worker's compensation coverage to employees to which the waiver applies. Usually this takes the form of securing worker's compensation coverage of the country where work will be performed or of the country of the employee's nationality, whichever offers greater benefits. The Department of Labor has granted partial blanket waivers of DBA coverage applicable to USAID-financed contracts performed in certain countries, subject to two conditions:

(1) Employees hired in the United States by the contractor, and citizens or residents of the United States are to be provided DBA insurance coverage;

(2) Waived employees (i.e., employees who are neither U.S. citizens nor U.S. resident aliens, and who were hired outside the United States) will be provided worker's compensation benefits as required by the laws of the country in which they are working or the laws of their native country, whichever offers greater benefits. Information as to whether a DBA Waiver has been obtained by USAID for a particular country may be obtained from the cognizant USAID contracting officer.

(b) To assist contractors in securing insurance at minimal rates for the workmen's compensation insurance required under the DBA, and to facilitate meeting insurance requirements for such coverage, USAID, after open and competitive negotiation, has entered into a contract with an insurance carrier to provide such coverage at a specified rate. The terms of this contract require the insurance carrier to provide coverage, and the contractor to make payments to and handle its claims with that insurance carrier. Contracting officers are responsible for explaining and advising contractors of the details of securing such insurance.

728.307-2 Liability.

(a)-(b) [Reserved]

(c) *Automobile liability.* In order to ensure that private automobiles used by contractor employees stationed overseas under an USAID contract are properly insured, USAID has established minimum required coverages as a supplement to the (48 CFR) FAR clause at 52.228-7. This supplemental

coverage is specified in (48 CFR) AIDAR 752.228-7, and is to be used in all USAID-direct contracts involving performance overseas.

728.307-70 Medical Evacuation (MEDEVAC) Services (MAR 1993).

The contracting officer must insert the clause at 752.228-70 in all contracts which require performance by contractor employees overseas.

728.309 Contract clause for worker's compensation insurance.

(a) Because of the volume of projects performed overseas resulting in contracts which require worker's compensation insurance, USAID has contracted with an insurance carrier to provide the required insurance for all USAID contractors. It is therefore necessary to supplement the (48 CFR) FAR clause at 52.228-3 with the additional coverage specified in (48 CFR) AIDAR 752.228-3. The coverage specified in (48 CFR) AIDAR 752.228-3 shall be used in addition to the coverage specified in (48 CFR) FAR 52.228-3 in all USAID-direct contracts involving performance overseas.

728.313 Contract clauses for insurance of transportation or transportation-related services.

(a) USAID is required by law to include language in all its direct contracts and subcontracts ensuring that all U.S. marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate under the contract. USAID has therefore established a supplementary preface to the clause at (48 CFR) FAR 52.228-9. This supplementary preface is set forth in (48 CFR) AIDAR 752.228-9, and is required for use in any USAID-direct contract where marine insurance is necessary or appropriate.