

TITLE: CIB 95-16 Defense Base Act Insurance--Rate for Direct Contracts

July 3, 1995

MEMORANDUM FOR ALL CONTRACTING OFFICERS AND NEGOTIATORS

TO: Distribution List, FAC

FROM: DAA/M, Michael D. Sherwin, Procurement Executive

SUBJECT: **Defense Base Act Insurance--Rate for Direct Contracts**

CONTRACT INFORMATION BULLETIN 95-16

This CIB supersedes and cancels CIB 93-14.

Under all USAID direct contracts which involve any overseas performance, the contractor is required by law to provide overseas employees with worker's compensation insurance pursuant to the Longshoremen's and Harbor Workers' Compensation Act (commonly called the "Defense Base Act" or "DBA") (42 U.S.C. 1651 et seq.). USAID has a contract with CIGNA Corporation, Inc., which provides DBA coverage to all USAID direct contractors at a guaranteed rate with no minimum premium. Each year the rate is recalculated based on previous years' loss ratio, number of policies written, and several other factors. Effective July 1, 1995, the new rate is \$4.72 per \$100 of employee remuneration. Remuneration is defined as salary, plus overseas recruitment incentive and post differential. It should be noted that existing policies will not be adjusted at this time; however, new and renewal coverage will be issued at the \$4.72 per \$100 rate.

The CIGNA coordinator for this DBA program is Wright and Company, 1400 I Street, N.W., Suite 1100, Washington, D.C. 20005. Wright and Company may be telephoned at (202) 289-0200 within the Washington, D.C. area or at (800) 424-9801 (toll free) from outside the Washington area. Telefax is (202) 289-6607.

All USAID direct contractors must place DBA insurance with CIGNA unless they have:

1. A DBA self-insurance program approved by the Department of Labor; or
2. An approved retrospective rating plan for DBA insurance.

Applicability

DBA insurance coverage is required for employees of contractors (and their subcontractors) unless a waiver has been obtained from the U.S. Department of Labor (See FAR 28.305). However, waivers will not be granted for employees hired in the United States, U.S. citizens or bonafide residents of the United States regardless of nationality. Waivers have been obtained for "third country nationals" and "cooperating country nationals" in over 80 countries (see CIB 95-13).

Many contractors question whether DBA applies to short-term employees or employees going overseas on one- or two-week assignments. It is required by statute for employees of contractors and subcontractors

regardless of the duration of their assignment. Many contractors also believe that their State Worker's Compensation program fulfills their contract requirements to provide coverage. This is not the case--DBA coverage is over and above any State coverage and is required by law for U.S. government contracts. Subcontracts under USAID direct contracts are also included in the required coverage. Personal Services Contractors (PSCs) are exempt from Defense Base Act coverage. Treated like regular direct hire employees for worker's compensation purposes, PSCs are covered by the Federal Employees Compensation Act.