

MEMORANDUM FOR ALL CONTRACTING OFFICERS AND NEGOTIATORS

TO: DISTRIBUTION LIST FAC

FROM: M/OP, Mark S. Ward, Director

SUBJECT: Defense Base Act (DBA) Coverage and DBA
Waiver List

CONTRACT INFORMATION BULLETIN 01-14

This CIB supersedes and cancels CIB 00-07.

The purpose of this bulletin is to update guidance relative to Defense Base Act (DBA) coverage and DBA Waiver List.

USAID's contract with Fidelity and Casualty of New York to provide Defense Base Act (DBA) coverage to USAID direct and host country contractors includes a provision for periodic adjustment of the basic rate. The fixed rate for the first two years of the contract, July 1, 1998 - June 30, 2000, was \$1.84 per \$100 of employee remuneration. Based on recalculation of the initial rate (incurred losses divided by earned premium) the rate for the third year option period, July 1, 2000 through June 30, 2001, was \$1.54 per \$100 of employee remuneration. For the fourth year option period, July 1, 2001 through June 30, 2002 the rate is \$1.44 per \$100 of employee remuneration.

OBTAINING DBA COVERAGE

Applications for coverage should be made directly to:

Rutherford International, Inc.
5500 Cherokee Avenue, Suite 300
Alexandria, VA 22312

Points of Contact: Sara Payne or Diane Ford
(703) 354-1616

Hours of Operation are: 8 a.m. to 5 p.m. (Eastern Standard Time)

Telefax: (703) 354-0370 Website: www.rutherfordord.com

Applications may be requested by telephone or facsimile and coverage will be effective the day the covered individual leaves the United States. Applicants should request coverage in accordance with USAID Contract No. HNE-Q-00-98-00163-00 with Fidelity and Casualty of New York. Rutherfordord International, Inc., the administrative agent for Fidelity and Casualty of New York, will require a faxed copy of the Application for Defense Base Act Coverage (see Attachment 1). Applications and complete information and instructions are available directly from Rutherfordord International, Inc or from the Rutherfordord web-site. A copy of Department of Labor, LS 202 Form, Employers First Report of Injury, necessary to make an initial report of injury or illness, is included as Attachment 2.

Coverage is effective on the date listed on the application form as the "coverage effective date" (the date the individual leaves the United States). "Date of application" is the date Rutherfordord invoices the applicant. For new business, the applicant has 10 days from the date of application (Rutherfordord's invoice date) to submit the premium. For renewal business, the applicant has 30 days from the date of application (Rutherfordord's invoice date) to submit the premium. Rutherfordord may adjust the application date, at its option, to meet particular circumstances.

COST OF COVERAGE

For the period July 1, 2001 through June 30, 2002, the rate is \$1.44 per \$100 of employee remuneration for all USAID financed contracts, subcontracts and subordinate contracts for both direct and host country contracts. For the purpose of this contract, employee remuneration is defined as salary plus overseas recruitment incentive and post differential, but excludes per diem, housing allowance, travel expenses, temporary quarters allowance, education allowance and other miscellaneous post allowances.

A CIB will be issued to provide information on rates after

June 30, 2002.

DESCRIPTION OF DEFENSE BASE ACT (DBA) COVERAGE

DBA coverage is worker's compensation insurance providing that employees may collect in the event that 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 for employees of contractors and subcontractors regardless of the duration of their assignment. It is over and above any State coverage. Subcontracts under USAID financed contracts are also included in the required coverage.

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.

The Defense Base Act does not apply to grants and cooperative agreements or sub-contracts or sub-grants under assistance instruments.

WAIVER OF COVERAGE

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). Blanket waivers from Defense Base Act insurance requirements have been issued by the Department of Labor for foreign nationals in over 100 countries in which USAID has or had programs. Foreign national employees covered by this waiver (and/or their employers) are exempt from the requirement to secure Defense Base Act Insurance. Foreign national employees and their employers should be aware that even though they do not have to secure Defense Base Act coverage, foreign national employees must be provided worker's compensation benefits as prescribed in applicable foreign laws. However, the waivers do not apply to any employee who is:

1. A citizen of the United States;
2. A resident of the United States; or,
3. Hired in the United States.

The attached DBA Waiver List (Attachment 3) identifies all countries for which foreign national employees and/or their employers are exempt from the requirement to secure Defense Base Act coverage.

CONTRACT CLAUSE

As prescribed in AIDAR 728.309, the USAID Contracting Officer should add the supplemental coverage at AIDAR 752.228-3 to the clause specified in FAR 52.228-3.

Attachment: a/s

