

**Department of State**

**652.228-71**

with respect to his or her activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his or her own use, including the performance of contractual services within that country, as may be defined by such regulations.

(End of clause)

[64 FR 43631, Aug. 11, 1999]

Category	Yes/No	Number
(1) United States citizens or residents		
(2) Individuals hired in the United States, regardless of citizenship		
(3) Local nationals or third country nationals where contract performance takes place in a country where there are no local workers' compensation laws.	.....	Local nationals: _____ Third country nationals: _____
(4) Local nationals or third country nationals where contract performance takes place in a country where there are local workers' compensation laws.	.....	Local nationals: _____ Third country nationals: _____

**652.228-70 Defense Base Act—Covered Contractor Employees.**

As prescribed in 628.309-70(a), insert the following provision:

**DEFENSE BASE ACT—COVERED CONTRACTOR EMPLOYEES (JUN 2006)**

(a) Bidders/offerors shall indicate below whether or not any of the following categories of employees will be employed on the resultant contract, and, if so, the number of such employees:

(End of provision)

[71 FR 34841, June 16, 2006; 71 FR 41177, July 20, 2006]

**652.228-71 Worker's Compensation Insurance (Defense Base Act)—Services.**

As prescribed in 628.309-70(b), insert the following clause:

**WORKERS' COMPENSATION INSURANCE (DEFENSE BASE ACT)—SERVICES (JUN 2006)**

(a) This clause supplements FAR 52.228-3. For the purposes of this clause, "covered contractor employees" includes the following individuals:

- (1) United States citizens or residents;
- (2) Individuals hired in the United States or its possessions, regardless of citizenship; and
- (3) Local nationals and third country nationals where contract performance takes place in a country where there are no local workers' compensation laws.

(b) The Contractor shall procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between the Department of State and the Department's DBA insurance carrier for covered contractor employees, unless the Contractor has a DBA

(b) The contracting officer has determined that for performance in the country of [contracting officer insert country of performance and check the appropriate block below]

- Workers' compensation laws exist that will cover local nationals and third country nationals.
- Workers' compensation laws do not exist that will cover local nationals and third country nationals.

(c) If the bidder/offeror has indicated "yes" in block (a)(4) of this provision, the bidder/offeror shall not purchase Defense Base Act insurance for those employees. However, the bidder/offeror shall assume liability toward the employees and their beneficiaries for war-hazard injury, death, capture, or detention, in accordance with the clause at FAR 52.228-4.

(d) If the bidder/offeror has indicated "yes" in blocks (a)(1), (2), or (3) of this provision, the bidder/offeror shall compute Defense Base Act insurance costs covering those employees pursuant to the terms of the contract between the Department of State and the Department's Defense Base Act insurance carrier at the rates specified in DOSAR 652.228-74, Defense Base Act Insurance Rates—Limitation. If DOSAR provision 652.228-74 is not included in this solicitation, the bidder/offeror shall notify the contracting officer before the closing date so that the solicitation can be amended accordingly.

self-insurance program approved by the Department of Labor. The Contractor shall submit a copy of the Department of Labor's approval to the contracting officer upon contract award, if applicable.

(c) The current rate under the Department of State contract is [contracting officer insert rate] of compensation for services.

(d) The Contractor shall insert a clause substantially the same as this in all subcontracts. The Contractor shall require that subcontractors insert a similar clause in any of their subcontracts.

(e) Should the rates for DBA insurance coverage increase or decrease during the performance of this contract, the contracting officer shall modify this contract accordingly.

(f) The Contractor shall demonstrate to the satisfaction of the contracting officer that the equitable adjustment as a result of the insurance increase or decrease does not include any reserve for such insurance. Adjustment shall not include any overhead, profit, general and administrative expenses, etc.

(g)(1) Section 16 of the State Department Basic Authorities Act (22 U.S.C. 2680a), as amended, provides that the Defense Base Act shall not apply with respect to such contracts as the Secretary of State determines are contracts with persons employed to perform work for the Department of State on an intermittent basis for not more than 90 days in a calendar year. "Persons" includes individuals hired by companies under contract with the Department. The Procurement Executive has the authority to issue the waivers for Contractor employees who work on an intermittent or short-term basis.

(2) The Contractor shall submit waiver requests to the contracting officer. The request shall contain the following information:

- (i) Contract number;
- (ii) Name of Contractor;
- (iii) Brief description of the services to be provided under the contract and country of performance;
- (iv) Name and position title of individual(s);
- (v) Nationality of individual(s) (must be U.S. citizen or U.S. resident);
- (vi) Dates (or timeframe) of performance at the overseas location; and,
- (vii) Evidence of alternative workers' compensation coverage for these employees (e.g., evidence that the State workers' compensation program covers workers on short-term foreign assignments).

(3) The contracting officer shall provide to the Contractor the original of the approved or disapproved document and maintain a copy in the contract file.

(End of clause)

*Alternate I.* (MO/YR) If the contract is for construction, as prescribed in 628.309-70(b), substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) The current rate under the Department of State contract is [contracting officer insert rate] of compensation for construction.

[71 FR 34841, June 16, 2006; 71 FR 41177, July 20, 2006]

**652.228-72—652.228-73 [Reserved]**

**652.228-74 Defense Base Act insurance rates—Limitation.**

As prescribed in 628.309-70(c), insert the following provision:

DEFENSE BASE ACT INSURANCE RATES—  
LIMITATION (JUN 2006)

(a) The Department of State has entered into a contract with an insurance carrier to provide Defense Base Act (DBA) insurance to Department of State covered contractor employees at a contracted rate. For the purposes of this provision, "covered contractor employees" includes the following individuals:

- (1) United States citizens or residents;
- (2) Individuals hired in the United States or its possessions, regardless of citizenship; and
- (3) Local nationals and third country nationals where contract performance takes place in a country where there are no local workers' compensation laws.

(b) In preparing the cost proposal, the bidder/offeror shall use the following rates in computing the cost for DBA insurance:

Services @[contracting officer insert current rate] of compensation; or  
Construction @[contracting officer insert current rate] of compensation.

(c) Bidders/offerors shall compute the total compensation (direct salary plus differential, but excluding per diem, housing allowance and other miscellaneous allowances) to be paid to covered contractor employees and the cost of the DBA insurance in their bid/offer using the foregoing rate. Bidders/offerors shall include the estimated DBA insurance costs in their proposed total fixed price or estimated cost. However, the DBA insurance costs shall be identified in a separate line item in the bid/proposal.

(End of provision)

[71 FR 34841, June 16, 2006; 71 FR 41177, July 20, 2006]