

Defense Base Act insurance

The Defense Base Act is a federal law that requires certain Workers Compensation benefits be paid to employees of federal government contractors while working overseas. DBA insurance meets this need and had not been a significant issue until the war efforts in Afghanistan and Iraq. However, the extensive use of contractor personnel to support the military's operations in both countries significantly raised the attention paid to DBA – and led to hundreds of DBA claims by injured employees.

There are too many myths or misunderstandings about DBA insurance, such as:

Myth	Fact
My Workers Compensation insurance will cover the employees	You must have the “Defense Base Act” endorsement on your current Workers Compensation policy - which most insurers refuse to provide therefore, you frequently have to purchase a separate DBA policy from companies like ACE, AIG, CNA, or Chubb.
The contract didn't mention it, nor did the contracting officer, so I must not be required to provide DBA.	DBA is a separate federal law, there are FAR clauses that address it but even if the contract never mentions DBA, the employer still must comply with the law.
The contracting officer said he'd waive the requirement.	Only the Secretary of Labor can issue a waiver; and then ONLY for foreign workers employed by the contractor. No one can waive coverage entitlements for U.S. citizens working overseas.
DBA policies cover all my workers.	Most DBA policies written for the more hazardous areas in the world today are written specifically for a contract; task order; countries by name; or even specific employees. Underwriters use multiple methods and you must understand when/if you must provide notice to the insurer prior to a trip.
My employees don't work on U.S. military bases overseas.	Doesn't matter; <u>any</u> employee working outside the U.S. under <u>any</u> contract funded by the U.S. government is eligible for DBA benefits.
My employees are foreign nationals	They are entitled to DBA benefits, unless the Sec. of Labor has issued a waiver, which are rare, and the equivalent of Workers' Compensation is available in the country in which the work is performed.
I'm a subcontractor	The Prime should require you to carry DBA and if you don't carry it, the Prime can be held responsible for paying the benefits to the injured employee.

The Department of Labor has jurisdiction over DBA and has held several seminars to raise awareness of the issue for contractors, and for contracting officers. This has resulted in improved understanding and communication between contractors and procurement officials on the issue. However, only a small percentage of companies eligible to win government work have attended the seminars and many new companies have never been exposed to the issue of DBA. There are still many people who don't understand it, and believe the myths listed above.

You'll find a useful *PowerPoint* to learn more about DBA insurance at www.govconrisk.com.



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