

that the solicitation can be amended accordingly.

(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 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