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# ADS Chapter 322

## Procurement of Insurance

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**Functional Series 300 – Acquisition and Assistance**  
**ADS 322 – Procurement of Insurance**  
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## ADS 322 – Procurement of Insurance

### 322.1 OVERVIEW

Effective Date: 05/31/2001

The objective of this ADS chapter is to provide policy directives and required procedures regarding insurance requirements for USAID-financed activities and USAID's competition requirement for procuring other insurance under direct contracts and subcontracts.

### 322.2 PRIMARY RESPONSIBILITIES

Effective Date: 12/14/2006

- a. **USAID Contracting Officers (COs)** are responsible for including appropriate insurance provisions in all acquisition instruments, where applicable.
- b. The **Bureau for Management, Office of Acquisition and Assistance, Evaluation Division (M/OAA/E)** disseminates information about the contracted providers for Defense Base Act (DBA) and ensures that current information is made available worldwide.
- c. The **Bureau for Management, Office of Acquisition and Assistance, Transportation Division (M/OAAT)** is responsible for matters relating to marine insurance.
- d. **Technical Officers at Missions** are responsible for monitoring cooperating country programs to ensure that all involved parties comply with USAID requirements and appropriate use of marine insurance loss proceeds.

### 322.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

#### 322.3.1 Defense Base Act (DBA) Insurance

Effective Date: 03/29/2021

Except for Personal Service Contracts (PSCs) and contracts exclusively for the furnishing of materials or supplies, USAID-direct contracts and subcontracts involving performance overseas must provide for worker's compensation insurance as required by the Defense Base Act (DBA).

For non-personal services contracts, see [ADS 302.3.5.8](#) for information regarding applicability, the availability of waivers, and DBA rates.

For worker's compensation insurance for U.S. Personal Services Contractors (USPSCs), see [ADS 309.3.2.2](#) and [ADS 442.3.3](#). For worker's compensation insurance for Cooperating Country National Personal Services Contractors (CCNPSCs)

and Third Country National Personal Services Contractors (TCNPSCs), see [ADS 309.3.3.2](#) and [ADS 442.3.3](#).

### **322.3.2 Medical Evacuation (MEDEVAC) Insurance**

Effective Date: 03/29/2021

All U.S. citizens, U.S. permanent resident aliens, and Third Country Nationals working overseas under USAID-direct contracts and subcontracts, including PSCs, must have medical evacuation (MEDEVAC) coverage. Accompanying dependents must also have coverage.

For non-personal services contracts, see [AIDAR 728](#). For USPSCs, see [ADS 309.3.2.2](#). For TCNPSCs, see [ADS 309.3.3.2](#).

MEDEVAC insurance is not mandatory for grants, cooperative agreements, and host country contracts. Consistent with applicable cost principles, costs associated with medical evacuation insurance coverage may be allowable under these awards.

### **322.3.3 Marine Insurance**

Effective Date: 05/31/2001

It is the policy of USAID that all goods financed under contracts and agreements must be insured in U.S. dollars, or any other freely convertible currency, during ocean transportation, unless USAID agrees otherwise in writing. Marine insurance is generally optional for goods under Commodity Import Programs; however, if the cooperating country discriminates against U.S. marine insurance providers, it is no longer optional, and the importer must obtain marine insurance (see [322.3.3.1](#)). Insurance on CIP goods must also be in U.S. dollars or any other freely convertible currency. Importers are responsible, under CIPs, for deciding whether to secure marine insurance and whether to seek USAID financing of such insurance. USAID reserves the right to require marine insurance on shipments under CIPs.

Unless otherwise approved in the authorizing document, USAID may only finance premiums for marine insurance, including war risk, on USAID-financed commodities, if:

- a. The insurance is placed in a country included in the authorized geographic code in the instrument. If the authorized code is any code other than 000, the cooperating country itself must be authorized as an eligible source, in accordance with [ADS 310](#);
- b. The insurance is placed in accordance with the terms of the commodity purchase contract or the written instructions of the importer;
- c. The insurance covers, at a minimum, the period during which the commodities are in transit to the cooperating country;

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- d. The premiums do not exceed the limitations contained in [\(22 CFR 201.68\)](#); and
- e. Loss payment proceeds are to be paid in U.S. dollars or other freely convertible currency.

### **322.3.3.1 U.S. Marine Insurance Providers**

Effective Date: 03/29/2021

As prescribed in [AIDAR 728.313](#), the CO must include the supplementary preface at AIDAR 752.228-9 preceding (48 CFR) Federal Acquisition Regulation (FAR) 52.228-9 in any USAID-direct contract where marine insurance is necessary or appropriate.

The following are procedures for resolving complaints of marine insurance discrimination:

- a. Anyone with a specific complaint of discrimination must report it to M/OAA/T at [m.oaa.tcmaillistusaid@usaid.gov](mailto:m.oaa.tcmaillistusaid@usaid.gov). M/OAA/T must refer complaints to the responsible program office in the Mission for review and investigation.

If the Mission's review discloses the existence of cooperating country practices which may indicate discrimination, the Mission notifies M/OAA/T by forwarding all pertinent documents and information. M/OAA/T reviews the file to determine whether discrimination exists. If M/OAA/T does determine that discrimination exists, it directs a letter, through the Mission, to the host country government, requesting that the host country government take action be taken to eliminate the discriminatory practice(s).

This letter must allow a reasonable length of time to correct the problem and must notify the host country government that, unless the discrimination is removed, all USAID-financed shipments must be covered by marine insurance and such insurance must be placed in the United States with a company or companies authorized to do business in any state of the United States. Foreign-owned insurance companies licensed to do business in the United States (by any state) are treated the same as comparable U.S.-owned companies.

- b. If the cooperating country has not removed the discriminatory measure after the deadline set by USAID, M/OAA/T must invoke the sanctions set forth in this section. M/OAA/T must request USAID officials authorized to amend letters of commitment and other implementing instruments to require that all commodities purchased by the discriminating country with USAID funds be insured in the United States against marine risk, with a company authorized to do marine insurance business in the U.S.

### **322.3.3.2 General Average**

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Effective Date: 05/31/2001

Liability for assessments associated with general average is a standard clause incorporated into all marine cargo insurance policies and is not an issue with regard to most USAID-financed shipments. If the shipment is insured, the insurer, not USAID, is liable for all general average assessments. If the shipment is uninsured, the importer, as consignee, is liable for all general average assessments. USAID reserves the right to use program funds for payment of general average on uninsured shipments at the request of the host country government.

Importers of uninsured shipments must obtain the consent of the host country prior to using any available program funds for payment of general average contributions, provided that USAID has authorized their use and financed the ocean freight on the cargo in question.

### **322.3.3.3 Use of Loss Payments**

Effective Date: 03/29/2021

Under CIPs, when USAID finances marine insurance, loss payments exceeding \$10,000 must be reported to USAID. The geographic code originally authorized in the instrument remains the only eligible source for goods financed by loss payments to repair or replace insured goods.

For non-CIP transactions, the eligible source for goods financed by loss payments is geographic code 935 (see [ADS 310.3.1.1](#) for a description of principal geographic codes).

Importers must report loss payments in accordance with [22 CFR 201.32\(c\)](#). If such loss payments are not used to procure any eligible commodities under the agreement, USAID must request a refund of these payments from the host country. Where USAID does not finance the marine insurance, and loss payments are not used in accordance with the agreement, USAID must also request a refund from the host country under the standard provision in loan and grant agreements that provides the basis for a refund (see [ADS 350mac, the Development Objective Agreement and Bilateral Project Agreement Template \[non-health\]](#) and [ADS 350mad, Development Objective Agreement and Bilateral Project Agreement Template \[Health\]](#)).

### **322.3.4 Insurance for Other than Transportation or Transportation-Related Services**

Effective Date: 05/31/2001

It is the policy of USAID to require that all U.S. insurance companies have a fair opportunity to compete for non-transportation related insurance requirements that might arise under USAID-direct contracts and subcontracts.

## 322.4 MANDATORY REFERENCES

### 322.4.1 External Mandatory References

Effective Date: 03/29/2021

- a. [22 CFR 201](#)
- b. [42 U.S.C. 1651, \(Defense Base Act\)](#)
- c. [\(48 CFR\) AIDAR 728](#)
- d. [Foreign Assistance Act of 1961, as amended, \(FAA\) Section 604\(d\), Marine Insurance](#)

### 322.4.2 Internal Mandatory References

Effective Date: 03/29/2021

- a. [ADS 300, Agency Acquisition and Assistance \(A&A\) Planning](#)
- b. [ADS 302, USAID Direct Contracting](#)
- c. [ADS 310, Source and Nationality Requirements for Procurement of Commodities and Services Financed by USAID](#)

### 322.5 ADDITIONAL HELP

Effective Date: 03/29/2021

- a. [ADS 350, Grants to Foreign Governments](#)
- b. [ADS 350mac, Development Objective Agreement and Bilateral Project Agreement Template \[non-health\]](#)
- c. [ADS 350mad, Development Objective Agreement and Bilateral Project Agreement Template \[Health\]](#)

## 322.6 DEFINITIONS

Effective Date: 12/14/2006

See the [ADS Glossary](#) for all ADS terms and definitions.

**Cooperating Country (See also host country and local country)**

The country receiving USAID assistance. (Chapters [305](#), [322](#), [495](#))

**Cooperating Country National (CCN)**

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An individual who is a cooperating country citizen or a non-cooperating country citizen lawfully admitted for permanent residence in the cooperating country. (**Chapter 302** and **322**)

### **Defense Base Act Insurance**

Worker's compensation insurance for contractor employees working overseas; required by statute (the Defense Base Act) for all contractors and subcontractors, regardless of the duration of their assignment. Not applicable to Personal Service Contracts (PSCs), who are covered by the Federal Employees Compensation Act. (**Chapter 322**)

### **Discrimination**

Discrimination in marine insurance exists when a cooperating country takes actions which hinder private importers in USAID transactions from making cost, insurance, and freight (c.i.f.) and cost and insurance (c. and i.) contracts with U.S. commodity suppliers, or actions which hinder importers in instructing such suppliers to place marine insurance with companies authorized to do business in the United States. Discrimination does not exist in either of the following situations: when a cooperating country, when importing for itself, elects not to use USAID dollars for marine insurance but instead follows a policy of self-insurance or insures with non-USAID funds; or when a cooperating country insures public sector procurements locally with a government-owned insurance company. (**Chapter 322**)

### **Freely Convertible Currency**

Any currency or form of money that is in public circulation that can be quickly and easily bought and sold for other currencies. (**Chapter 322**)

### **General Average**

A doctrine of marine law applicable to all ocean shipments whereby, when part of a marine cargo or part of the ship is deliberately sacrificed in the interest of saving the whole, owners of the sacrificed portion are entitled to contributions from the owners of the saved portion of the cargo and the ship. (**Chapter 322**)

### **Host Country (See also cooperating country)**

The country in which a USAID-funded activity takes place. (**Chapter 301, 305, 322**)

### **Loss Payments**

Payments made by marine insurance carriers to the insured party to cover losses. (**Chapter 322**)

### **MEDEVAC Insurance**

Insurance to cover the cost of medical evacuation of USAID contractors and their dependents; applicable to all U.S. citizens, U.S. permanent resident aliens, and third country nationals. Cooperating country nationals are not eligible. (**Chapter 322**)

### **Placed in**

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The term "placed in", as used concerning marine insurance, refers to the place where the insurance is purchased. Thus, marine insurance must be "placed in" an eligible source country. To be placed in an eligible source country, two conditions must be met: payment of the premium must be made to an insurance company in an eligible source country; and the policy must be issued by an insurance company located in an eligible source country. (**Chapter 322**)

**Third Country National (TCN)**

A legal resident, but not a citizen, of the non-U.S. country in which the Sponsoring Unit is operating. (**Chapter 322**)

**War Hazard Insurance**

Insurance which provides compensation for the injury, disability, death, or enemy detention of employees of contractors with the United States, as defined by the War Hazards Insurance Act. (**Chapter 322**)

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