



U.S. Department of Labor
Office of Workers' Compensation

Date: DEC 31 2012

WAIVER NUMBER: DOD 2013-02

WAIVER
Issued Under Section 1(e) of the
DEFENSE BASE ACT

The Defense Base Act, codified at 42 U.S.C. 1651 et seq, permits the Secretary of Labor, in the exercise of his/her discretion, upon the recommendation of the head of any department or other agency of the United States, to waive the application of the Defense Base Act with respect to any contract, subcontract or subordinate contract, work location under such contracts, or classification of employees.

A. Requesting Agency

A waiver has been requested by the Department of Defense and The United States Agency for International Development (USAID).

B. Scope of Waiver

This waiver from the Defense Base Act applies to the classification of employees set forth below employed under all contracts, subcontracts or subordinate contracts, which would have otherwise been covered by the Defense Base Act, made by the Department of Defense or any of its component agencies or branches, or the United States Agency for International Development for work to be performed at any location outside the United States.

C. Classification of Employees

All employees covered under compulsory workers' compensation laws of **SOUTH KOREA**.

D. Conditions of Waiver

1. This **waiver does not apply** to any employees who:
 - a. Are citizens of the United States of America; or,
 - b. Are lawful residents of the United States of America; or,
 - c. Were hired in the United States of America.
2. This waiver covers only those employees that are covered by the **COMPULSORY WORKERS' COMPENSATION LAWS** named above, which apply to the country where:

- a. The injury, disease, or death occurred; or,
 - b. The employee lives or the contract of employment was made; and
 - c. The employer is in full conformance in all respects with all requirements and regulations of the COMPULSORY WORKERS' COMPENSATION LAWS named above at the time of any injury, disease, or death.
3. This waiver excludes employers otherwise covered by the Defense Base Act, with respect only to the classification of employees specified in C. and D. 2 above, from all rights and obligations under the Longshore and Harbor Workers' Compensation Act, as extended by the Defense Base Act, and in particular from:
 - a. The exclusive liability provision under 42 U.S.C. 1651(c);
 - b. The obligation to secure payment of compensation under 33 U.S.C. 932(a)(1);
 - c. The penalties for failure to secure such payment under 33 U.S.C. 938(a);
 - d. The penalties for failure to report claims under 33 U.S.C. 930(a); and,
 - e. The provisions of 33 U.S.C. 905(a).
4. For any employees for whom the applicability of the Defense Base Act has been waived, the employer is responsible for providing for those employees the same protection as that provided by the War Hazards Compensation Act (42 U.S.C. 1701, et seq) except that the level of such benefits shall conform to any law or international agreement controlling the benefits to which those employees may be entitled.
5. The term "COMPULSORY WORKERS' COMPENSATION LAWS" means laws which provide at least for compulsory payment by an employer of compensation and medical benefits for an accidental injury (including occupational disease and death), arising out of or in the course of employment, to employees or their survivors without payment for or contribution to the cost of the insurance or benefits by the employee and without reduction for the employee's fault. The benefits must not cease if the employee is repatriated.

E. Separability and Termination

If the applicability of this waiver to any employer or employee is held to be invalid, the applicability to other employers or employees shall not be affected thereby. On expiration, modification, termination, suspension or revocation of this waiver, all rights or obligations under it shall continue for all injuries, disease, or death arising prior to that date.

F. Previous Waivers

All previous waivers granted to the USAID or Departments of the Army (including the U.S. Army Corps of Engineers), Navy, Air Force, or any other component which is currently part of the Department of Defense, with respect to **South Korea** are hereby revoked and superseded by this waiver. Any rights which may have accrued under previous waivers are covered under this waiver.

G. Grant of Waiver and Effective Date

A waiver is hereby granted to the requesting Department(s), with respect to the contract(s), location, classification of employees, and subject to the conditions listed above, for a period of one calendar year unless earlier modified, terminated, suspended, or revoked.

This waiver is effective January 1, 2013 and expires on December 31, 2013.

**Issued by the Office of Workers' Compensation Programs
U.S. Department of Labor, Washington, D.C.**



MIRANDA CHIU, Director
Division of Longshore and Harbor Workers' Compensation