247.573 General.

- (a) *Delegated authority*. Pursuant to 10 U.S.C. 2631(b)(2), the Secretary of Defense has delegated (see PGI 247.573) the authority to make determinations either that a U.S.-flag vessel is not available at a fair and reasonable rate for commercial vessels of the United States or is otherwise not available to—
- (1) The Commander, United States Transportation Command; and
- (2) The Secretary of the Navy.
- (b) Procedures.
- (1) Contracting officers shall follow the procedures at PGI 247.573 (b)(1) when purchase of ocean transportation services is incidental to a contract for supplies, services, or construction.
- (2) Contracting officers shall follow the procedures at PGI <u>247.573</u> (b)(2) when direct purchase of ocean transportation services is the principal purpose of the contract.
- (3) See PGI <u>247.573</u> (b)(3) for agency and department procedures relating to annual reporting requirements of waivers granted for nonavailability of U.S.-flag vessels.
- (4) Follow the procedures at PGI $\underline{247.573}$ (b)(4) to accomplish security background checks pursuant to clause $\underline{252.247-7027}$, Riding Gang Member Requirements.
- (5)(i) In accordance with $\underline{10~U.S.C.~2631(d)}$, contracting officers shall exercise appropriate contractual rights and remedies against contractors who fail to comply. Such remedies may include the determination that a contractor is ineligible for award of future contracts, termination of an existing contract, or suspension or debarment of the contractor. Also see $\underline{242.1502}$ regarding assessments of the contractor's past performance.
- (ii) In the event of a contractor's unauthorized use of foreign-flag vessels in the performance of a contract, the contracting officer is authorized to consider an equitable adjustment.

Parent topic: Subpart 247.5 - OCEAN TRANSPORTATION BY U.S.-FLAG VESSELS