

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 [247.573](#) (b)(2) when direct purchase of ocean transportation services is the principal purpose of the contract.

(3) See PGI [247.573](#) (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 [247.573](#) (b)(4) to accomplish security background checks pursuant to clause [252.247-7027](#) , Riding Gang Member Requirements.

(5)(i) In accordance with [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 [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](#)