## 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  $\underline{247.573}$  (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  $\underline{247.573}$  (b)(4) to accomplish security background checks pursuant to clause  $\underline{252.247-7027}$ , Riding Gang Member Requirements.

(5)(i) In accordance with <u>10 U.S.C. 2631(d)</u>, 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 <u>242.1502</u> 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