52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels.

As prescribed in 47.507(a), insert the following clause:

Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021)

(a) Except as provided in paragraph (e) of this clause, the Cargo Preference Act of1954 (46 U.S.C.App.1241(b)) requires that Federal departments and agencies *shall* transport in privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of equipment, materials, or commodities that *may* be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo liners, and tankers). Such transportation *shall* be accomplished when any equipment, materials, or commodities, located within or outside the *United States*, that *may* be transported by ocean vessel are-

(1) Acquired for a U.S. Government agency account;

(2) Furnished to, or for the account of, any foreign nation without provision for reimbursement;

(3) Furnished for the account of a foreign nation in connection with which the *United States* advances funds or credits, or guarantees the convertibility of foreign currencies; or

(4) Acquired with advance of funds, loans, or guaranties made by or on behalf of the *United States*.

(b) The Contractor *shall* use privately owned U.S.-flag commercial vessels to ship at least 50 percent of the gross tonnage involved under this contract (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials, or commodities under the conditions set forth in paragraph (a) of this clause, to the extent that such vessels are available at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels.

(c)

(1) The Contractor *shall* submit one legible copy of a rated on-board ocean bill of lading for each *shipment* to both-

(i) The *Contracting Officer*, and

(ii) The:

Office of Cargo Preference Maritime Administration (MAR-590) 400 Seventh Street, SW Washington DC 20590.

Subcontractor bills of lading *shall* be submitted through the Prime Contractor.

(2) The Contractor *shall* furnish these bill of lading copies (i) within 20 working days of the date of loading for *shipments* originating in the *United States*, or (ii) within 30 working days for *shipments* originating outside the *United States*. Each bill of lading copy *shall* contain the following information:

(A) Sponsoring U.S. Government agency.

(B) Name of vessel.

(C) Vessel flag of registry.

(D) Date of loading.

(E) Port of loading.

(F) Port of final discharge.

(G) Description of commodity.

(H) Gross weight in pounds and cubic feet if available.

(I) Total ocean *freight* revenue in U.S. dollars.

(d) The Contractor *shall* insert the substance of this clause, including this paragraph (d), in all subcontracts or *purchase orders* under this contract, except those described in paragraph (e)(4).

(e) The requirement in paragraph (a) does not apply to-

(1) Cargoes carried in vessels as required or authorized by law or treaty;

(2) Ocean transportation between foreign countries of *supplies* purchased with foreign currencies made available, or derived from funds that are made available, under the Foreign Assistance Act of1961 (22 U.S.C. 2353);

(3) *Shipments* of classified *supplies* when the classification prohibits the use of non-Government vessels; and

(4) Subcontracts or *purchase orders* for the *acquisition* of *commercial products* or *commercial services* unless-

(i) This contract is-

(A) A contract or agreement for ocean transportation services; or

(B) A *construction* contract; or

(ii) The *supplies* being transported are-

(A) Items the Contractor is reselling or distributing to the Government without adding value. (Generally, the Contractor does not add value to the items when it subcontracts items for *f.o.b. destination shipment*); or

(B) Shipped in direct support of U.S. military-

(1) *Contingency operations*;

(2) Exercises; or

(3) Forces deployed in connection with United Nations or North Atlantic Treaty Organization *humanitarian or peacekeeping operations*.

(f) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels

may be obtained from the:

Office of Costs and Rates Maritime Administration 400 Seventh Street, SW Washington DC 20590 Phone: (202) 366-4610.

(End of clause)

Alternate I (Apr 2003). As prescribed in 47.507 (a)(2), substitute the following paragraphs (a) and (b) for paragraphs (a) and (b) of the basic clause:

(a) Except as provided in paragraphs (b) and (e) of this clause, the Contractor *shall* use privately owned U.S.-flag commercial vessels, and no others, in the ocean transportation of any *supplies* to be furnished under this contract.

(b) If such vessels are not available for timely *shipment* at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels, the Contractor *shall* notify the *Contracting Officer* and request (1) authorization to ship in foreign-flag vessels or (2) designation of available U.S.-flag vessels. If the Contractor is authorized *in writing* by the *Contracting Officer* to ship the *supplies* in foreign-flag vessels, the contract price *shall* be equitably adjusted to reflect the difference in costs of shipping the *supplies* in privately owned U.S.-flag commercial vessels and in foreign-flag vessels.

Alternate II (Nov 2021) . As prescribed in 47.507 (a)(3), substitute the following paragraph (e) for paragraph (e) of the basic clause:

(e) The requirement in paragraph (a) does not apply to-

(1) Cargoes carried in vessels as required or authorized by law or treaty;

(2) Ocean transportation between foreign countries of *supplies* purchased with foreign currencies made available, or derived from funds that are made available, under the Foreign Assistance Act of1961 (22 U.S.C. 2353); and

(3) *Shipments* of classified *supplies* when the classification prohibits the use of non-Government vessels.

(4) Subcontracts or *purchase orders* under this contract for the *acquisition* of *commercial products* or *commercial services* unless the *supplies* being transported are-

(i) Items the Contractor is reselling or distributing to the Government without adding value. (Generally, the Contractor does not add value to the items when it subcontracts items for *f.o.b. destination shipment*); or

(ii) *Shipments* in direct support of U.S. military-

(A) *Contingency operations*;

(B) Exercises; or

(C) Forces deployed in connection with United Nations or North Atlantic Treaty Organization *humanitarian or peacekeeping operations*. (*Note*: This contract requires *shipment* of *commercial products* in direct support of U.S. military *contingency operations*, exercises, or forces deployed in connection with United Nations or North Atlantic Treaty Organization *humanitarian or peacekeeping operations*.)

Parent topic: 52.247 [Reserved]