Part 247 - TRANSPORTATION

247.001 Definitions.

Subpart 247.1 - GENERAL

247.101 Policies.

Subpart 247.2 - CONTRACTS FOR TRANSPORTATION OR FOR TRANSPORTATION-RELATED SERVICES

247.200 Scope of subpart.

247.206 Preparation of solicitations and contracts.

247.207 Solicitation provisions, contract clauses, and special requirements.

247.270 Stevedoring contracts.

247.270-1 Definitions.

247.270-2 Technical provisions.

247.270-3 Evaluation of bids and proposals.

247.270-4 Contract clauses.

247.271 Contracts for the preparation of personal property for shipment or storage or for performance of intra-city or intra-area movement.

247.271-1 Policy.

247.271-2 Procedures.

247.271-3 Solicitation provisions, schedule formats, and contract clauses.

Subpart 247.3 - TRANSPORTATION IN SUPPLY CONTRACTS

247.301 General.

247.301-70 Definition.

247.301-71 Evaluation factor or subfactor.

247.305 Solicitation provisions, contract clauses, and transportation factors.

247.305-10 Packing, marking, and consignment instructions.

247.370 DD Form 1384, Transportation Control and Movement Document.

247.371 DD Form 1653, Transportation Data for Solicitations.

247.372 DD Form 1654, Evaluation of Transportation Cost Factors.

Subpart 247.5 - OCEAN TRANSPORTATION BY U.S.-FLAG VESSELS

247.570 Scope.

247.571 Definitions.

247.572 Policy.

247.573 General.

247.574 Solicitation provisions and contract clauses.

Parent topic: Defense Federal Acquisition Regulation

247.001 Definitions.

For definitions of "Civil Reserve Air Fleet" and "Voluntary Intermodal Sealift Agreement," see Joint Pub 1-02, DoD Dictionary of Military and Associated Terms. See additional information at PGI 247.001 for the Voluntary Intermodal Sealift Agreement program.

Subpart 247.1 - GENERAL

247.101 Policies.

(h) *Shipping documents covering f.o.b. origin shipments.*

(i) Procedures for the contractor to obtain bills of lading are in the clause at 252.247-7028 , Application for U.S. Government Shipping Documentation/ Instructions.

(ii) The term “commercial bills of lading” includes the use of any commercial form or procedure.

Subpart 247.2 - CONTRACTS FOR TRANSPORTATION OR FOR TRANSPORTATION-RELATED SERVICES

247.200 Scope of subpart.

This subpart does not apply to the operation of vessels owned by, or bareboat chartered by, the Government. See additional guidance at PGI 247.200 for procurement of transportation or related services.

247.206 Preparation of solicitations and contracts.

Consistent with FAR 15.304 and 215.304 , consider using the following as evaluation factors or subfactors:

(1) Record of claims involving loss or damage; and

(2) Commitment of transportation assets to readiness support (e.g., Civil Reserve Air Fleet and Voluntary Intermodal Sealift Agreement).

247.207 Solicitation provisions, contract clauses, and special requirements.

(1) Use the clause at 252.247-7003 , Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer, in solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, that are for carriage in which a motor carrier, broker, or freight forwarder will provide or arrange truck transportation services that provide for a fuel-related adjustment.

(2) Use the clause at 252.247-7028, Application for U.S. Government Shipping Documentation/Instructions in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, when shipping under Bills of Lading and Domestic Route Order under FOB origin contracts, Export Traffic Release regardless of FOB terms, or foreign military sales shipments.

247.270 Stevedoring contracts.

247.270-1 Definitions.

(a) “Commodity rate” is—

(1) The price quoted for handling a ton (weight or measurement) of a specified commodity; and

(2) Computed by dividing the hourly stevedoring gang cost by the estimated number of tons of the specified commodity that can be handled in one hour.

(b) “Gang cost” is—

(1) The total hourly wages paid to the workers in the gang, in accordance with the collective bargaining agreement between the maritime industry and the unions at a specific port; and

(2) Payments for workmen's compensation, social security taxes, unemployment insurance, taxes, liability and property damage insurance, general and administrative expenses, and profit.

(c) “Stevedoring” is the—

(1) Loading of cargo from an agreed point of rest on a pier or lighter and its storage aboard a vessel; or

(2) Breaking out and discharging of cargo from any space in the vessel to an agreed point of rest dockside or in a lighter.

247.270-2 Technical provisions.

(a) Because conditions vary at different ports, and sometimes within the same port it is not practical to develop standard technical provisions covering all phases of stevedoring operations.

(b) When including rail car, truck, or intermodal equipment loading and unloading, or other dock and terminal work under a stevedoring contract, include these requirements as separate items of work.

247.270-3 Evaluation of bids and proposals.

As a minimum, require that offers include—

(a) Tonnage or commodity rates that apply to the bulk of the cargo worked under normal conditions;

(b) Labor-hour rates that apply to services not covered by commodity rates, or to work performed under hardship conditions; and

(c) Rates for equipment rental.

247.270-4 Contract clauses.

Use the following clauses in solicitations and contracts for stevedoring services as indicated:

(a) 252.247-7000 , Hardship Conditions.

(b) 252.247-7002 , Revision of Prices, when using negotiation.

(c) 252.247-7007 , Liability and Insurance.

247.271 Contracts for the preparation of personal property for shipment or storage or for performance of intra-city or intra-area movement.

247.271-1 Policy.

(a) *Annual contracts.* Normally—

(1) Use requirements contracts to acquire services for the—

(i) Preparation of personal property for shipment or storage; and

(ii) Performance of intra-area movement.

(2) Award contracts on a calendar year basis.

(3) Provide for option years.

(4) Award contracts, or exercise option years, before November 1 of each year, if possible.

(b) *Areas of performance.* Define clearly in the solicitation each area of performance.

(1) Establish one or more areas; however, hold the number to a minimum consistent with local conditions.

(2) Each schedule may provide for the same or different areas of performance. Determine the areas as follows—

(i) Use political boundaries, streets, or any other features as lines of demarcation. Consider such matters as—

(A) Total volume;

(B) Size of overall area; and

(C) The need to service isolated areas of high population density.

(ii) Specifically identify frequently used terminals, and consider them as being included in each area of performance described in the solicitation.

(c) *Maximum requirements-minimum capability.*The contracting officer must—

(1) Establish realistic quantities on the Estimated Quantities Report in DoD 4500.9-R, Defense Transportation Regulation, Part IV;

(2) Ensure that the Government's minimum acceptable daily capability—

(i) Will at least equal the maximum authorized individual weight allowance as prescribed by the Joint Federal Travel Regulations; and

(ii) Will encourage maximum participation of small business concerns as offerors.

247.271-2 Procedures.

Follow the procedures at PGI 247.271-2 for contracting for the preparation of personal property for shipment or storage.

247.271-3 Solicitation provisions, schedule formats, and contract clauses.

When acquiring services for the preparation of personal property for movement or storage, or for performance of intra-city or intra-area movement, use the following provisions, clauses, and schedules. Revise solicitation provisions and schedules, as appropriate, if using negotiation rather than sealed bidding. Overseas commands, except those in Alaska and Hawaii, may modify these clauses to conform to local practices, laws, and regulations.

(a) In solicitations and resulting contracts, the schedules provided by the installation personal property shipping office. Follow the procedures at PGI 247.271-3 (c) for use of schedules.

(b) In addition to designating each ordering activity, as required by the clause at FAR 52.216-18, Ordering, identify by name or position title the individuals authorized to place orders for each activity. When provisions are made for placing oral orders in accordance with FAR 16.504(a)(4)(vii)), document the oral orders in accordance with department or agency instructions.

(c) The clause at 252.247-7014 , Demurrage. See additional information at PGI 247.271-3 (c)(1) for demurrage and detention charges.

(d) The clause at 252.247-7016 , Contractor Liability for Loss and Damage.

(e) The clauses at FAR 52.247-8, Estimated Weight or Quantities Not Guaranteed, and FAR 52.247-13, Accessorial Services—Moving Contracts.

Subpart 247.3 - TRANSPORTATION IN SUPPLY CONTRACTS

247.301 General.

See PGI 247.301 for transportation guidance relating to Government Purchase Card purchases.

247.301-70 Definition.

"Integrated logistics managers" or "third-party logistics providers" means providers of multiple logistics services. Some examples of logistics services are the management of transportation, demand forecasting, information management, inventory maintenance, warehousing, and distribution.

247.301-71 Evaluation factor or subfactor.

For contracts that will include a significant requirement for transportation of items outside the contiguous United States, include an evaluation factor or subfactor that favors suppliers, third-party logistics providers, and integrated logistics managers that commit to using carriers that participate in one of the readiness programs (e.g., Civil Reserve Air Fleet and Voluntary Intermodal Sealift Agreement).

247.305 Solicitation provisions, contract clauses, and transportation factors.

247.305-10 Packing, marking, and consignment instructions.

Follow the procedures at PGI 247.305-10 for preparation of consignment instructions.

247.370 DD Form 1384, Transportation Control and Movement Document.

The transportation office of the shipping activity prepares the DD Form 1384 to accompany all shipments made through a military air or water port, in accordance with DoD 4500.9-R, Defense Transportation Regulation, Part II, Chapter 203. A link to this document is available in PGI 247.370 .

247.371 DD Form 1653, Transportation Data for Solicitations.

The transportation specialist prepares the DD Form 1653 to accompany requirements for the acquisition of supplies. The completed form should contain recommendations for suitable f.o.b. terms and other suggested transportation provisions for inclusion in the solicitation.

247.372 DD Form 1654, Evaluation of Transportation Cost Factors.

Contracting personnel may use the DD Form 1654 to furnish information to the transportation office for development of cost factors for use by the contracting officer in the evaluation of f.o.b. origin offers.

Subpart 247.5 - OCEAN TRANSPORTATION BY U.S.-FLAG VESSELS

247.570 Scope.

This subpart—

(a) Implements—

(1) The Military Cargo Preference Act of 1904 (“the 1904 Act”), 10 U.S.C. 2631, which applies to the ocean transportation of cargo owned by, destined for use by, or otherwise transported by DoD;

(2) Section 1017 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364) (10 U.S.C. 2631 note), which requires consideration, in solicitations requiring a covered vessel, of the extent to which offerors have had overhaul, repair, and maintenance work performed in shipyards located in the United States or Guam;

(3) Section 3504 of the National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417) (10 U.S.C. chapter 257 note), which addresses requirements that apply to riding gang members and DoD-exempted individuals (see 252.247-7027 (c)) who perform work on U.S.-flag vessels under DoD contracts for transportation services documented under chapter 46 U.S.C. chapter 121; and

(4) Section 1024 of the National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116-283), which updates the listed circumstances where DoD may waive the requirement that DoD supplies be transported by sea in vessels belonging to the United States or vessels of the United States, and it modifies the requirement for reflagging or repair work in the United States for vessels used under time-charter contracts.

(b) Does not specifically implement the Cargo Preference Act of 1954 ("the 1954 Act"), 46 U.S.C. chapter 553. The 1954 Act is applicable to DoD, but DFARS coverage is not required because compliance with the 1904 Act historically has resulted in DoD exceeding the 1954 Act's requirements; and

(c) Does not implement—

(1) Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. chapters 121 and 552), commonly known as the “Jones Act,” for the application of coastwise trade; or

(2) Waivers thereof pursuant to 46 U.S.C. 501.

247.571 Definitions.

As used in this subpart—

"Corrective and preventive maintenance or repair" means—

(1) Maintenance or repair actions performed as a result of a failure in order to return or restore equipment to acceptable performance levels; and

(2) Scheduled maintenance or repair actions to prevent or discover functional failures.

"Covered vessel" means a vessel—

(1) Owned, operated, or controlled by the offeror; and

(2) Qualified to engage in the carriage of cargo in the coastwise or noncontiguous trade under 46 U.S.C. 12112 and 50501 and 46 U.S.C. chapter 551.

"Foreign-flag vessel" means any vessel that is not a U.S.-flag vessel.

"Ocean transportation" means any water-borne transportation aboard a ship, vessel, boat, barge, ferry, or the like outside the internal waters of the United States (as defined in 33 CFR 2.24).

"Overhaul, repair, and maintenance work" means work requiring a shipyard period greater than or equal to 5 calendar days.

"Reflagging or repair work" means work performed on a vessel—

(1) To enable the vessel to meet applicable standards to become a vessel of the United States; or

(2) To convert the vessel to a more useful military configuration.

"Supplies" means supplies that are clearly identifiable for eventual use by or owned by DoD at the time of transportation by sea, or are otherwise transported by DoD, regardless of ownership or use by DoD. An item is clearly identifiable for eventual use by DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.

"U.S.-flag vessel means either a vessel belonging to the United States or a vessel of the United States as that term is defined in 46 U.S.C. 116.

247.572 Policy.

(a) In accordance with 10 U.S.C. 2631(a), DoD contractors shall transport supplies exclusively on U.S.-flag vessels. In accordance with 10 U.S.C. 2631(b), DoD (see 247.573(a)) may waive this requirement when a U.S.-flag vessel—

(1) Is not available at a fair and reasonable rate for commercial vessels of the United States; or

(2) Is not otherwise available.

(b) Contracts must provide for the use of vessels belonging to the United States when security classifications prohibit the use of other than vessels belonging to the United States.

(c) In accordance with 10 U.S.C. 2631(c)—

(1) Any vessel used under a time charter contract for the transportation of supplies under this section shall have the following work performed in the United States or its outlying areas:

(i) Reflagging or repair work, if the reflagging or repair work is performed—

(A) On a vessel for which the contractor submitted an offer in response to the solicitation for the contract; and

(B) Prior to acceptance of the vessel by the Government.

(ii) Prior to acceptance of the vessel by the Government.

(ii) Corrective and preventive maintenance or repair work for the duration of the contract, to the greatest extent practicable.

(2) The Secretary of Defense may waive this requirement if the Secretary determines that such waiver is critical to the national security of the United States. In accordance with 10 U.S.C. 2631(c)(2), DoD shall immediately submit, in writing, a notice to the congressional committees listed at 10 U.S.C. 2631(e) of such a waiver and the reason for the waiver.

(d) In accordance with section 1017 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364), when obtaining carriage requiring a covered vessel, the contracting officer shall consider the extent to which offerors have had overhaul, repair, and maintenance work for covered vessels performed in shipyards located in the United States or Guam.

(e) In accordance with section 3504 of the National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417), DoD may not award, renew or extend, or exercise an option under a charter of, or contract for carriage of cargo by, a U.S.-flag vessel documented under 46 U.S.C. chapter 121, unless the contract contains the clause at 252.247-7027.

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.

247.574 Solicitation provisions and contract clauses.

(a) Use the basic or one of the alternates of the clause at 252.247-7023, Transportation of Supplies by Sea, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, except those for direct purchase of ocean transportation services.

(1) Use the basic clause unless any of the supplies to be transported are commercial products that are -

(i) Shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations when the contract is not a construction contract; or

(ii) Commissary or exchange cargoes transported outside of the Defense Transportation System when the contract is not a construction contract.

(2) Use the alternate I clause if any of the supplies to be transported are commercial products that are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations when the contract is not a construction contract.

(3) Use the alternate II clause if any of the supplies to be transported are commercial products that are commissary or exchange cargoes transported outside of the Defense Transportation System (10 U.S.C. 2643), when the contract is not a construction contract.

(b) Use the clause at 252.247-7025, Reflagging or Repair Work, in all time charter solicitations and contracts, including time charter solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, that are for the use of a vessel for the transportation of supplies, unless a waiver has been granted in accordance with 247.572 (c)(2).

(c) Use the provision at 252.247-7026 , Evaluation Preference for Use of Domestic Shipyards–Applicable to Acquisition of Carriage by Vessel for DoD Cargo in the Coastwise or

Noncontiguous Trade, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services, that require a covered vessel for carriage of cargo for DoD.

(d) Use the clause at 252.247-7027 , Riding Gang Member Requirements, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, that are for the charter of, or contract for carriage of cargo by, a U.S.-flag vessel documented under chapter 46 U.S.C. chapter 121.