

## Federal Acquisition Regulation

47.504

are not available at fair and reasonable rates.

(2) The Merchant Marine Act of 1936 (46 U.S.C. 1101), which declares it is the policy of the United States to foster the development and encourage the maintenance of its merchant marine.

(3) The Cargo Preference Act of 1954 (46 U.S.C. 1241(b), which is Section 901(b) of the Merchant Marine Act). Under this Act, Government agencies acquiring, either within or outside the United States, supplies that may require ocean transportation shall ensure that at least 50 percent of the gross tonnage of these supplies (computed separately for dry bulk carriers, dry cargo liners, and tankers) is transported on privately owned U.S.-flag commercial vessels to the extent that such vessels are available at rates that are fair and reasonable for U.S.-flag commercial vessels. This applies when the supplies are—

(i) Acquired for the account of the United States;

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

(iii) 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

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

(b) Additional policies providing preference for the use of U.S.-flag vessels are contained in—

(1) 10 U.S.C. 2634 for the transportation of privately-owned vehicles belonging to service members when making permanent change of station moves;

(2) 46 U.S.C. 1241(a) for official business travel by officers and employees of the United States and for the transportation of their personal effects; and

(3) 46 U.S.C. 1241(e) for the transportation of motor vehicles owned by Government personnel when transportation is at Government expense or otherwise authorized by law.

(c) The provisions of the Cargo Preference Act of 1954 may be temporarily waived when the Congress, the President, or the Secretary of Defense declares that an emergency justifying a

temporary waiver exists and so notifies the appropriate agency or agencies.

### 47.503 Applicability.

(a) Except as stated in paragraph (b) below and in 47.504, the Cargo Preference Acts of 1904 and 1954 described in 47.502(a) apply to the following cargoes:

(1) Supplies owned by the Government and in the possession of—

(i) The Government;

(ii) A contractor; or

(iii) A subcontractor at any tier.

(2) Supplies for use of the Government that are contracted for and require subsequent delivery to a Government activity but are not owned by the Government at the time of shipment.

(3) Supplies not owned by the Government at the time of shipment that are to be transported for distribution to foreign assistance programs, but only if these supplies are not acquired or contracted for with local currency funds (see 47.504(b)).

(b) Government-owned supplies to be shipped commercially that are (1) in the possession of a department, a contractor, or a subcontractor at any tier and (2) for use of military departments shall be transported exclusively in privately owned U.S.-flag commercial vessels if such vessels are available at rates that are fair and reasonable for U.S.-flag commercial vessels.

(c) The 50-percent requirement shall not prevent the use of privately owned U.S.-flag commercial vessels for transportation of up to 100 percent of the cargo subject to the Cargo Preference Act of 1954.

### 47.504 Exceptions.

The policy and procedures in this subpart do not apply to the following:

(a) Shipments aboard vessels of the Panama Canal Commission or as required or authorized by law or treaty.

(b) 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 of 1961 (22 U.S.C. 2353).

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