

**Carriage Vessel Overhaul, Repair, and Maintenance  
DFARS Case 2007-D001  
Interim Rule**

**PART 212—ACQUISITION OF COMMERCIAL ITEMS**

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**212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.**

(f) \* \* \*

[(xiii) 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, as prescribed in 247.574(e).]

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**212.602 Streamlined evaluation of offers.**

(b) \* \* \*

(iii) For the direct purchase of ocean transportation services, also evaluate offers in accordance with the criterion [a] at 247.572[3]-2(c)(2).

\* \* \* \* \*

**215.304 Evaluation factors and significant subfactors.**

(c) \* \* \*

[(iii) See 247.573-2(c) for additional evaluation factors required in solicitations for the direct purchase of ocean transportation services.]

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**PART 247—TRANSPORTATION**

\* \* \* \* \*

**247.570 Scope.**  
This subpart—

(a) Implements[-

(1) [T]he Cargo Preference Act of 1904 ("the 1904 Act"), 10 U.S.C. 2631, which applies to the ocean transportation of cargo owned by, or destined for use by, DoD; [and

(2) Section 1017 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364), which requires consideration of the extent to which offerers have had overhaul, repair, and maintenance work performed in shipyards located in the United States or Guam;]

\* \* \* \* \*

**[247.571 Definitions.**

"Covered vessel," "overhaul, repair, and maintenance work," and "shipyards," as used in this subpart, have the meaning given in 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.]

**247.571[2] Policy.**

(a) DoD contractors must transport supplies, as defined in the clause at 252.247-7023, Transportation of Supplies by Sea, exclusively on U.S.-flag vessels unless-

(1) Those vessels are not available, and the procedures at 247.572[3]-1(c)(1) or 247.572[3]-2(d)(1) are followed;

(2) The proposed charges to the Government are higher than charges to private persons for the transportation of like goods, and the procedures at 247.572[3]-1(c)(2) or 247.572[3]-2(d)(2) are followed; or

(3) The Secretary of the Navy or the Secretary of the Army determines that the proposed freight charges are excessive or unreasonable in accordance with 247.572[3]-1(c)(3) or 247.572[3]-2(d)(3).

\* \* \* \* \*

[(d) In accordance with Section 1017 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364)-

(1) When obtaining carriage by vessel, DoD must 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; and

(2) DoD must submit an annual report to the congressional defense committees, addressing the information provided by offerors with regard to overhaul, repair, and maintenance for covered vessels performed in the United States or Guam.]

247.572[3] Procedures.

247.572[3]-1 Ocean transportation incidental to a contract for supplies, services, or construction.

\* \* \* \* \*

247.572[3]-2 Direct purchase of ocean transportation services.

\* \* \* \* \*

(c) All solicitations within the scope of this subsection must provide--

(1) A preference for U.S.-flag vessels in accordance with the 1904 Act; and

(2) An evaluation factor or subfactor for offeror participation in the Voluntary Intermodal Sealift Agreement[; and

(3) An evaluation factor or subfactor considering 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.]

(d) \* \* \*

(3) \* \* \*

(i) After considering the factors in 247.572[3]-1 (d)(3) (i)(A) and (B), if the contracting officer concludes that the freight charges proposed by U.S.-flag carriers may be excessive or otherwise unreasonable, the contracting officer must prepare a report in determination and finding format that includes, as appropriate--

\* \* \* \* \*

(C) An analysis of whether the costs are excessive (i.e., costs beyond the economic penalty normally incurred by excluding foreign competition), taking into consideration factors such as those listed at 247.572[3]-1(d)(3)(i)(C).

\* \* \* \* \*

**[247.573-3 Annual reporting requirement.**

(a) No later than February 15th of each year, departments and agencies shall—

(1) Prepare a report containing all information received from offerors in response to the provision at 252.247-7026 during the previous calendar year; and

(2) Submit the report to: Directorate of Acquisition, U.S. Transportation Command, ATTN: TCAQ, 508 Scott Drive, Scott AFB, IL 62225-5357.

(b) The Director of Acquisition, U.S. Transportation Command, will submit a consolidated report to the congressional defense committees in accordance with Section 1017 of Pub. L. 109-364.]

**247.573[4] Solicitation provision[s] and contract clauses.**

\* \* \* \* \*

(d) Use the clause at 252.247-7025, Reflagging or Repair Work, in all time charter solicitations and contracts for the use of a vessel for the transportation of supplies, unless a waiver has been granted in accordance with 247.571[2](c).

[(e) 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 for carriage of cargo by vessel for DoD. See 247.573-3 for reporting of the information received from offerors in response to the provision.]

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**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

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**252.247-7022 Representation of Extent of Transportation by Sea.**  
As prescribed in 247.573[4](a), use the following provision:

\* \* \* \* \*

**252.247-7023 Transportation of Supplies by Sea.**  
As prescribed in 247.573[4](b)(1), use the following clause:

\* \* \* \* \*

ALTERNATE I (MAR 2000)  
As prescribed in 247.573[4](b)(2), substitute the following paragraph (b) for paragraph (b) of the basic clause:

\* \* \* \* \*

ALTERNATE II (MAR 2000)  
As prescribed in 247.573[4](b)(3), substitute the following paragraph (b) for paragraph (b) of the basic clause:

\* \* \* \* \*

ALTERNATE III (MAY 2002)  
As prescribed in 247.573[4](b)(4), substitute the following paragraph (f) for paragraphs (f), (g), and (h) of the basic clause:

\* \* \* \* \*

**252.247-7024 Notification of Transportation of Supplies by Sea.**  
As prescribed in 247.573[4](c), use the following clause:

\* \* \* \* \*

**252.247-7025 Reflagging or Repair Work.**  
As prescribed in 247.573[4](d), use the following clause:

\* \* \* \* \*

**[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.**

As prescribed in 247.574(e), use the following provision:

**EVALUATION PREFERENCE FOR USE OF DOMESTIC SHIPYARDS – APPLICABLE TO ACQUISITION OF CARRIAGE BY VESSEL FOR DOD CARGO IN THE COASTWISE OR NONCONTIGUOUS TRADE (XXX 2007)**

(a) *Definitions.* As used in this provision—

“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 section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), commonly referred to as “Jones Act”; 46 U.S.C. 12106; and section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802).

“Overhaul, repair, and maintenance work” means work requiring a pierside shipyard period greater than or equal to 15 calendar days.

“Shipyards” means fixed facilities with drydocks and fabrication equipment capable of building a ship, defined as watercraft typically suitable or intended for other than personal or recreational use.

(b) This solicitation includes an evaluation factor that considers the extent to which the offeror has had overhaul, repair, and maintenance work for covered vessels performed in shipyards located in the United States or Guam.

(c) The offeror shall provide the following information with its offer, addressing all covered vessels for which overhaul, repair, and maintenance work has been performed during the period covering the current calendar year, up to the date of proposal submission, and the preceding four calendar years:

(1) Name of vessel.

(2) Description of qualifying shipyard work performed.

(3) Name of shipyard that performed the work.

(4) Inclusive dates of work performed.

(5) Cost of work performed.

(d) Offerors are responsible for submitting accurate information. The Contracting Officer—

(1) Will use the information to evaluate offers in accordance with the criteria specified in the solicitation; and

(2) Reserves the right to request supporting documentation if determined necessary in the proposal evaluation process.

(e) The Department of Defense will provide the information submitted in response to this provision to the congressional defense committees, as required by Section 1017 of Pub. L. 109-364.

(End of provision)]

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