



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Office of the Deputy Assistant Administrator for  
Acquisition and Business Services

800 Independence Avenue, SW  
Washington, DC 20591

March 12, 2024

Melinda Simmons-Healy  
Deputy Associate Administrator  
Commercial Sealift  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Dear Ms. Simmons-Healy:

I am responding to your letter dated February 21 to Administrator Whitaker regarding compliance with the Cargo Preference Act of 1954 (the Act). The letter asks that the Federal Aviation Administration (FAA) identify the Senior Accountable Official (SAO) for implementation and compliance with the Act. The FAA designates the Director of Acquisition Policy & Oversight (AAP-1) as the Agency's SAO. The incumbent director is Jake Lewis who can be reached at [Jake.Lewis@faa.gov](mailto:Jake.Lewis@faa.gov). The FAA's implementation of the Act is found with the FAA's Acquisition Management System at 3.11-62: Preference for Privately Owned U.S. Flag Commercial Vessels (copy attached). This clause was most recently updated in October 2023. The clause will be updated again within the next 60 days to include the current address for MARAD. The clause has two alternatives that are also attached with the relevant prescriptions for use. A search of our records indicates no bills of lading have been submitted in accordance with these clauses.

If you have any additional questions, please feel free to reach out to me or to Mr. Lewis.

Sincerely,

Nathan Tash  
Deputy Assistant Administrator  
Acquisition and Business Services

3 Enclosures

**3.11-62 Preference for Privately Owned U.S. Flag Commercial Vessels (October 2023)**

(a) The Cargo Preference Act of 1954 (46 U.S.C. 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 must 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) above, 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 must 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 must be submitted through the Prime Contractor.

(2) The Contractor must 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) Except for contracts at or below \$250,000, the Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts or purchase orders under this contract.

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

- (1) Contracts at or below \$250,000;
- (2) Cargoes carried in vessels of the Panama Canal Commission or as required or authorized by law or treaty;
- (3) 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); and
- (4) Shipments of classified supplies when the classification prohibits the use of non-

(f) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels may be obtained from the:

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

(End of clause)

**Prescription:** Must be used in SIRs and contracts that may involve ocean transportation of supplies subject to the Cargo Preference Act of 1954.

**UCF Section: I**

**Include by Reference**

**3.11-62 Alternate I Preference for Privately Owned U.S. Flag Commercial Vessels (April 1999)**

Delete paragraphs (a) and (b) from the basic clause and substitute for them the following paragraphs (a) and (b):

(a) Except as provided in paragraph (b) below, 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.

(End of clause)

**Prescription:** Must be used in SIRs and contracts when supplies to be furnished subject to the Cargo Preference Act of 1954 shall be transported exclusively in privately owned U.S. flag commercial vessels.

**UCF Section: I**

**Include by Reference**

**3.11-62 Alternate II Preference for Privately Owned U.S. Flag Commercial Vessels (April 1999)**

Delete paragraphs (a) and (b) from the clause and substitute for them the following paragraphs (a) and (b):

(a) When ocean transportation is required to bring supplies, materials, or equipment to the construction site from the United States either for use in performance of, or for incorporation in, the work called for by this contract, the Contractor shall use privately owned U.S. flag commercial vessels to the extent that such vessels are available at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels.

(b) The Contractor shall not make any shipment exceeding 10 measurement tons (400 cubic feet) by vessels other than privately owned U.S.-flag commercial vessels without (1) notifying the Contracting Officer that U.S.-flag commercial vessels are not available at rates that are fair and reasonable for such vessels and (2) obtaining permission to ship in other vessels. If permission is granted, the contract price shall be equitably adjusted to reflect the difference in cost.

(End of clause)

**Prescription:** Must be used in SIRs and contracts when supplies, equipment or materials to be shipped under construction contracts subject to the Cargo Preference Act of 1954 shall be transported exclusively in privately owned U.S. flag commercial vessels.

**UCF Section: I**

**Include by Reference**