(1) Travel by a foreign-flag air carrier would eliminate two or more aircraft changes en route;

(2) One of the two points abroad is the gateway airport en route to or from the United States and the use of a U.S.-flag air carrier would extend the time in a travel status by at least 6 hours more than travel by a foreign-flag air carrier, including accelerated arrival at the overseas destination or delayed departure from the overseas origin, as well as delay at the gateway airport or other interchange point abroad; or

(3) The travel is not part of the trip to or from the United States and the use of a U.S.-flag air carrier would extend the time in a travel status by at least 6 hours more than travel by a foreign-flag air carrier including delay at origin, delay en route, and accelerated arrival at destination.

(f) For all short-distance travel under either paragraph (d) or paragraph (e) of 47.403–1, U.S. air carrier service shall not be considered available when the elapsed traveltime on a scheduled flight from origin to destination airport by foreign-flag air carrier is 3 hours or less and service by a U.S.-flag air carrier would involve twice such traveltime.

47.403–2 Air transport agreements between the United States and foreign governments.

Nothing in the guidelines of the Comptroller General (see 47.403) shall preclude, and no penalty shall attend, the use of a foreign-flag air carrier that provides transportation under an air transport agreement between the United States and a foreign government, the terms of which are consistent with the international aviation policy goals at 49 U.S.C. 1502(b) and provide reciprocal rights and benefits.

47.403–3 Disallowance of expenditures.

(a) Agencies shall disallow expenditures for U.S. Government-financed commercial international air transportation on foreign-flag air carriers unless there is attached to the appropriate voucher a memorandum adequately explaining why service by U.S.-flag air carriers was not available, or why it was necessary to use foreign-flag air carriers.

(b) When the travel is by indirect route or the traveler otherwise fails to use available U.S.-flag air carrier service, the amount to be disallowed against the traveler is based on the loss of revenues suffered by U.S.-flag air carriers as determined under the following formula, which is prescribed and more fully explained in 56 Comp. Gen. 299 (1977):

\[
\text{Sum of U.S.-flag carrier segment mileage, authorized} \times \frac{\text{Fare payable by Government}}{\text{Sum of all segment mileage, authorized}} \text{ MINUS} \frac{\text{Sum of U.S.-flag carrier segment mileage, traveled}}{\text{Sum of all segment mileage, traveled}} \times \text{Through fare paid}
\]

(c) The justification requirement is satisfied by the contractor's use of a statement similar to the one contained in the clause at 52.247–63, Preference for U.S.-Flag Air Carriers. (See 47.405.)


47.404 Air freight forwarders.

(a) Agencies may use air freight forwarders that are engaged in international air transportation (49 U.S.C. 1301(24)(c)) for U.S. Government-financed movements of property. The rule on disallowance of expenditures in 47.403–3(a) applies also to the air carriers used by these international air freight forwarders.

(b) Agency personnel shall inform international air freight forwarders that to facilitate prompt payments of their bills, they shall submit with their bills (1) a copy of the airway bill or manifest showing the air carriers used and (2) justification for the use of foreign-flag air carriers similar to the one
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shown in the clause at 52.247–63, Preference for U.S.-Flag Air Carriers.

47.405 Contract clause.
The contracting officer shall insert the clause at 52.247–63, "Preference for U.S.-Flag Air Carriers, in solicitations and contracts whenever it is possible that U.S. Government-financed international air transportation of personnel (and their personal effects) or property will occur in the performance of the contract." This clause does not apply to contracts awarded using the simplified acquisition procedures in part 13 or contracts for commercial items (see part 12).

Subpart 47.5—Ocean Transportation by U.S.-Flag Vessels

47.500 Scope of subpart.
This subpart prescribes policy and procedures for giving preference to U.S.-flag vessels when transportation of supplies by ocean vessel is required. This subpart does not apply to the Department of Defense (DoD). Policy and procedures applicable to DoD appear in DFARS subpart 247.5.

47.501 Definitions.
As used in this subpart—

Dry bulk carrier means a vessel used primarily for the carriage of shipload lots of homogeneous unmarked non-liquid cargoes such as grain, coal, cement, and lumber.

Dry cargo liner means a vessel used for the carriage of heterogeneous marked cargoes in parcel lots. However, any cargo may be carried in these vessels, including part cargoes of dry bulk items or, when carried in deep tanks, bulk liquids such as petroleum and vegetable oils.

Foreign-flag vessel means any vessel of foreign registry including vessels owned by U.S. citizens but registered in a nation other than the United States.

Government vessel means a vessel owned by the U.S. Government and operated directly by the Government or for the Government by an agent or contractor, including a privately owned U.S.-flag vessel under bareboat charter to the Government.

Privately owned U.S.-flag commercial vessel means a vessel (1) registered and operated under the laws of the United States, (2) used in commercial trade of the United States, (3) owned and operated by U.S. citizens, including a vessel under voyage or time charter to the Government, and (4) a Government-owned vessel under bareboat charter to, and operated by, U.S. citizens.

Tanker means a vessel used primarily for the carriage of bulk liquid cargoes such as liquid petroleum products, vegetable oils, and molasses.

U.S.-flag vessel when used independently means either a Government vessel or a privately owned U.S.-flag commercial vessel.

47.502 Policy.
(a) The policy of the United States regarding the use of U.S.-flag vessels is stated in the following acts:

(1) The Cargo Preference Act of 1904 (10 U.S.C. 2631), which requires the Department of Defense to use only U.S.-flag vessels for ocean transportation of supplies for the Army, Navy, Air Force, or Marine Corps unless those vessels 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

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