

## Federal Management Regulation

## § 102-117.135

or individual TSP that provides satisfactory service with the best combination of service factors and price that meets the agency's requirements. A lower price may not be the best value if the service offered fails to meet the requirements of the shipment.

[75 FR 51394, Aug. 20, 2010]

### § 102-117.110 What is satisfactory service?

You should consider the following factors in assessing whether a TSP offers satisfactory service:

- (a) Availability and suitability of the TSP's equipment;
- (b) Adequacy of shipping and receiving facilities at origin and destination;
- (c) Adequacy of pickup and/or delivery service;
- (d) Availability of accessorial and special services;
- (e) Estimated time in transit;
- (f) Record of past performance of the TSP, including accuracy of billing and past performance record with Government agencies;
- (g) Capability of warehouse equipment and storage space;
- (h) Experience of company, management, and personnel to perform the requirements;
- (i) The TSP's safety record; and
- (j) The TSP's loss and damage record, including claims resolution.

[65 FR 60061, Oct. 6, 2000, as amended at 75 FR 51394, Aug. 20, 2010]

### § 102-117.115 How do I calculate total delivery costs?

You calculate total delivery costs for a shipment by considering all costs related to the shipping or receiving process, such as packing, blocking, bracing, drayage, loading and unloading, and transporting. Surcharges such as fuel, currency exchange, war risk insurance, and other surcharges should also be factored into the costs.

[75 FR 51394, Aug. 20, 2010]

### § 102-117.120 To what extent must I equally distribute orders for transportation and related services among TSPs?

You must assure that small businesses, socially or economically disadvantaged and women-owned TSPs

have equal opportunity to provide the transportation or related services.

### § 102-117.125 How detailed must I describe property for shipment when communicating to a TSP?

You must describe property in enough detail for the TSP to determine the type of equipment or any special precautions necessary to move the shipment. Details might include weight, volume, measurements, routing, hazardous cargo, or special handling designations.

### § 102-117.130 Must I select TSPs who use alternative fuels?

No, but, whenever possible, you are encouraged to select TSPs that use alternative fuel vehicles and equipment, under policy in the Clean Air Act Amendments of 1990 (42 U.S.C. 7612) or the Energy Policy Act of 1992 (42 U.S.C. 13212).

## Subpart D—Restrictions That Affect International Transportation of Freight and Household Goods

### § 102-117.135 What are the international transportation restrictions?

Several statutes mandate the use of U.S. flag carriers for international shipments, such as 49 U.S.C. 40118, commonly referred to as the "Fly America Act", and 46 U.S.C. 55305, the Cargo Preference Act of 1954, as amended. The principal restrictions are as follows:

(a) *Air cargo*: The use of foreign-flag air carriers when funded by the U.S. Government should be rare. International movement of cargo by air is subject to the Fly America Act, 49 U.S.C. 40118, which requires the use of U.S. flag air carrier service for all air cargo movements funded by the U.S. Government, including cargo shipped by contractors, grantees, and others at Government expense, except when one of the following exceptions applies:

(1) The transportation is provided under a bilateral or multilateral air transportation agreement to which the U.S. Government and the government of a foreign country are parties, and

which the Department of Transportation has determined meets the requirements of the Fly America Act.

(i) Information on bilateral or multilateral air transport agreements impacting U.S. Government procured transportation can be accessed at <http://www.state.gov/e/eb/tra/ata/index.htm>; and

(ii) If determined appropriate, GSA may periodically issue FMR Bulletins providing further guidance on bilateral or multilateral air transportation agreements impacting U.S. Government procured transportation. These bulletins may be accessed at <http://www.gsa.gov/bulletins>;

(2) When the costs of transportation are reimbursed in full by a third party, such as a foreign government, an international agency, or other organization; or

(3) Use of a foreign air carrier is determined to be a matter of necessity by your agency, on a case-by-case basis, when:

(i) No U.S. flag air carrier can provide the specific air transportation needed;

(ii) No U.S. flag air carrier can meet the time requirements in cases of emergency;

(iii) There is a lack of or inadequate U.S. flag air carrier aircraft;

(iv) There is an unreasonable risk to safety when using a U.S. flag carrier aircraft (e.g., terrorist threats). Written approval of the use of foreign air carrier service based on an unreasonable risk to safety must be approved by your agency on a case-by-case basis and must be supported by a travel advisory notice issued by the Federal Aviation Administration, Department of State, or the Transportation Security Administration; or

(v) No U.S. flag air carrier can accomplish the agency's mission.

(b) *Ocean cargo*: International movement of property by water is subject to the Cargo Preference Act of 1954, as amended, 46 U.S.C. 55305, and the implementing regulations found at 46 CFR Part 381, which require the use of a U.S. flag carrier for 50% of the tonnage shipped by each Department or Agency when service is available. The Maritime Administration (MARAD) monitors agency compliance with

these laws. All Departments or Agencies shipping Government-impelled cargo must comply with the provisions of 46 CFR 381.3. For further information contact MARAD, Tel: 1-800-996-2723, Email: [cargo.marad@dot.gov](mailto:cargo.marad@dot.gov). For further information on international ocean shipping, go to: <http://www.marad.dot.gov/cargopreference>.

[79 FR 33476, June 11, 2014]

**§ 102-117.140 What is cargo preference?**

Cargo preference is the statutory requirement that all, or a portion of all, ocean-borne cargo that moves internationally be transported on U.S. flag vessels. Deviations or waivers from the cargo preference laws must be approved by:

Department of Transportation, Maritime Administration, Office of Cargo Preference, 1200 New Jersey Ave., SE., Washington, DC 20590, <http://marad.dot.gov>. Tel. 1-800-987-3524. E-mail: [cargo.marad@dot.gov](mailto:cargo.marad@dot.gov).

[65 FR 60060, Oct. 6, 2000; 65 FR 81405, Dec. 26, 2000, as amended at 75 FR 51394, Aug. 20, 2010]

**§ 102-117.145 What are coastwise laws?**

Coastwise laws refer to laws governing shipment of freight, household goods and passengers by water between points in the United States or its territories. The purpose of these laws is to assure reliable shipping service and the existence of a maritime capability in times of war or national emergency (see section 27 of the Merchant Marine Act of 1920, 46 App. U.S.C. 883, 19 CFR 4.80).

**§ 102-117.150 What do I need to know about coastwise laws?**

You need to know that:

(a) Goods transported entirely or partly by water between U.S. points, either directly or via a foreign port, must travel in U.S. flag vessels that have a coastwise endorsement;

(b) There are exceptions and limits for the U.S. Island territories and possessions in the Atlantic and Pacific Oceans (see § 102-117.155); and