

# Subpart 212.3 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES FOR THE ACQUISITION OF COMMERCIAL ITEMS

**Parent topic:** [Part 212 - ACQUISITION OF COMMERCIAL ITEMS](#)

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

(c) Include an evaluation factor regarding supply chain risk (see subpart 239.73) when acquiring information technology, whether as a service or as a supply, that is a covered system, is a part of a covered system, or is in support of a covered system, as defined in [239.7301](#).

(f) The following additional provisions and clauses apply to DoD solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items. If the offeror has completed any of the following provisions listed in this paragraph electronically as part of its annual representations and certifications at <https://www.sam.gov>, the contracting officer shall consider this information instead of requiring the offeror to complete these provisions for a particular solicitation.

(i) *Part 203 - Improper Business Practices and Personal Conflicts of Interest.*

(A) Use the FAR clause at 52.203-3, Gratuities, as prescribed in FAR 3.202, to comply with 10 U.S.C. 4651.

(B) Use the clause at [252.203-7000](#), Requirements Relating to Compensation of Former DoD Officials, as prescribed in 203.171-4(a), to comply with section 847 of Pub. L. 110-181.

(C) Use the clause at [252.203-7002](#), Requirement to Inform Employees of Whistleblower Rights, as prescribed in 203.970, to comply with [10 U.S.C. 4701](#).

(D) Use the clause at [252.203-7003](#), Agency Office of the Inspector General, as prescribed in [203.1004](#)(a), to comply with section 6101 of Pub. L. 110-252 and 41 U.S.C. 3509.

(E) Use the provision at [252.203-7005](#), Representation Relating to Compensation of Former DoD Officials, as prescribed in [203.171-4](#)(b).

(ii) *Part 204-Administrative and Information Matters.*

(A) Use the clause at [252.204-7004](#), Antiterrorism Awareness Training for Contractors, as prescribed in [204.7203](#).

(B) Use the provision at [252.204-7008](#), Compliance with Safeguarding Covered Defense Information Controls, as prescribed in [204.7304](#)(a).

(C) Use the clause at [252.204-7009](#), Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information, as prescribed in [204.7304](#)(b).

(D) Use the clause at [252.204-7012](#), Safeguarding Covered Defense Information and Cyber Incident

Reporting, as prescribed in [204.7304\(c\)](#).

(E) Use the clause at [252.204-7014](#), Limitations on the Use or Disclosure of Information by Litigation Support Contractors, as prescribed in [204.7403\(a\)](#), to comply with 10 U.S.C. 129d.

(F) Use the clause at [252.204-7015](#), Notice of Authorized Disclosure of Information for Litigation Support, as prescribed in [204.7403\(b\)](#), to comply with 10 U.S.C. 129d.

(G) Use the provision at [252.204-7016](#), Covered Defense Telecommunications Equipment or Services - Representation, as prescribed in [204.2105\(a\)](#), to comply with section 1656 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91).

(H) Use the provision at [252.204-7017](#), Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services - Representation, as prescribed in [204.2105\(b\)](#), to comply with section 1656 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91).

(I) Use the clause at [252.204-7018](#), Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services, as prescribed in [204.2105\(c\)](#), to comply with section 1656 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91).

(J) Use the provision at [252.204-7019](#), Notice of NIST SP 800-171 DoD Assessment Requirements, as prescribed in [204.7304 \(d\)](#).

(K) Use the clause at [252.204-7020](#), NIST SP 800-171 DoD Assessment Requirements, as prescribed in [204.7304 \(e\)](#).

(L) Use the clause at [252.204-7021](#), Cybersecurity Maturity Model Certification Requirements, as prescribed in [204.7503 \(a\)](#) and [\(b\)](#).

(M) Use the clause at [252.204-7022](#), Expediting Contract Closeout, as prescribed in [204.804-70 Contract clause.](#)

(N) Use the clause at [252.204-7023 Reporting Requirements for Contracted Services.](#), Reporting Requirements for Contracted Services, to comply with [10 U.S.C. 4505](#).

(1) Use the basic clause as prescribed in [204.1705\(a\)\(i\)](#) and [\(ii\)](#).

(2) Use the alternate I clause as prescribed in [204.1705\(a\)\(i\)](#) and [\(iii\)](#).

(iii) *Part 205 - Publicizing Contract Actions.* Use the clause at [252.205-7000](#), Provision of Information to Cooperative Agreement Holders, as prescribed in [205.470](#), to comply with 10 U.S.C. 4957.

(iv) *Part 211 - Describing Agency Needs.*

(A) Use the clause at [252.211-7003](#), Item Unique Identification and Valuation, as prescribed in [211.274-6\(a\)\(1\)](#).

(B) Use the clause at [252.211-7007](#), Reporting of Government-Furnished Property, as prescribed in [211.274-6](#).

(C) Use the clause at [252.211-7008](#), Use of Government-Assigned Serial Numbers, as prescribed in [211.274-6\(c\)](#).

(v) *Part 213 - Simplified Acquisition Procedures.* Use the provision at 252.213-7000, Notice to Prospective Suppliers on Use of Supplier Performance Risk System in Past Performance Evaluations, as prescribed in 213.106-2-70.

(vi) *Part 215 - Contracting by Negotiation.*

(A) Use the provision at 252.215-7003, Requirements for Submission of Data Other Than Certified Cost or Pricing Data - Canadian Commercial Corporation, as prescribed at 215.408(2)(i).

(B) Use the clause at 252.215-7004, Requirement for Submission of Data other Than Certified Cost or Pricing Data - Modifications - Canadian Commercial Corporation, as prescribed at 215.408(2)(ii).

(C) Use the provision at 252.215-7007, Notice of Intent to Resolicit, as prescribed in 215.371-6.

(D) Use the provision 252.215-7008, Only One Offer, as prescribed at 215.408(3).

(E) Use the provision 252.215-7010, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, as prescribed at 215.408(5)(i) to comply with section 831 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and sections 851 and 853 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114-92).

(1) Use the basic provision as prescribed at 215.408(5)(i)(A).

(2) Use the alternate I provision as prescribed at 215.408(5)(i)(B).

(F) Use the provision at 252.215-7016, Notification to Offerors—Postaward Debriefings, as prescribed in 215.570, to comply with section 818 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91).

(vii) *Part 216—Types of Contracts.* Use the clause at 252.216-7010, Postaward Debriefings for Task Orders and Delivery Orders, as prescribed in 216.506-70(b), to comply with section 818 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91).

(viii) *Part 219 - Small Business Programs.*

(A) Use the provision at 252.219-7000, Advancing Small Business Growth, as prescribed in 219.309(1), to comply with 10 U.S.C. 4959.

(B) Use the clause at 252.219-7003, Small Business Subcontracting Plan (DoD Contracts), to comply with 15 U.S.C. 637.

(1) Use the basic clause as prescribed in 219.708(b)(1)(A)(1).

(2) Use the alternate I clause as prescribed in 219.708(b)(1)(A)(2).

(3) Use the alternate II clause as prescribed in 219.708(b)(1)(A)(3).

(C) Use the clause at 252.219-7004, Small Business Subcontracting Plan (Test Program), as prescribed in 219.708(b)(1)(B), to comply with 15 U.S.C. 637 note.

(D) Use the provision at 252.219-7000, Advancing Small Business Growth, as prescribed in 219.309(1), to comply with 10 U.S.C. 2419.

(E) Use the provision at 252.219-7012, Competition for Religious-Related Services, as prescribed in

219.270-3.

(ix) *Part 223 - Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace.* Use the clause at 252.223-7008, Prohibition of Hexavalent Chromium, as prescribed in 223.7306.

(x) *Part 225 - Foreign Acquisition.*

(A) Use the provision at 252.225-7000, Buy American - Balance of Payments Program Certificate, to comply with 41 U.S.C. chapter 83 and Executive Order 10582 of December 17, 1954, Prescribing Uniform Procedures for Certain Determinations Under the Buy-American Act.

(1) Use the basic provision as prescribed in 225.1101(1)(i).

(2) Use the alternate I provision as prescribed in 225.1101(1)(ii).

(B) Use the clause at 252.225-7001, Buy American and Balance of Payments Program, to comply with 41 U.S.C. chapter 83 and Executive Order 10582 of December 17, 1954, Prescribing Uniform Procedures for Certain Determinations Under the Buy-American Act.

(1) Use the basic clause as prescribed in 225.1101(2)(ii).

(2) Use the alternate I clause as prescribed in 225.1101(2)(iii).

(C) Use the clause at 252.225-7006, Acquisition of the American Flag, as prescribed in 225.7002-3(c), to comply with section 8123 of the DoD Appropriations Act, 2014 (Pub. L. 113-76, division C, title VIII), and the same provision in subsequent DoD appropriations acts.

(D) Use the clause at 252.225-7007, Prohibition on Acquisition of Certain Items from Communist Chinese Military Companies, as prescribed in 225.1103(4), to comply with section 1211 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2006 (Pub. L. 109-163) as amended by the NDAs for FY 2012 and FY 2017.

(E) Use the clause at 252.225-7008, Restriction on Acquisition of Specialty Metals, as prescribed in 225.7003-5(a)(1), to comply with 10 U.S.C. 4863.

(F) Use the clause at 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals, as prescribed in 225.7003-5(a)(2), to comply with 10 U.S.C. 4863.

(G) Use the provision at 252.225-7010, Commercial Derivative Military Article - Specialty Metals Compliance Certificate, as prescribed in 225.7003-5(b), to comply with 10 U.S.C. 4863.

(H) Use the clause at 252.225-7012, Preference for Certain Domestic Commodities, as prescribed in 225.7002-3(a), to comply with 10 U.S.C. 4862.

(I) Use the clause at 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools, as prescribed in 225.7002-3(b), to comply with 10 U.S.C. 4862.

(J) Use the clause at 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings, as prescribed in 225.7009-5, to comply with section 8065 of Pub. L. 107-117 and the same restriction in subsequent DoD appropriations acts.

(K) Use the clause at 252.225-7017, Photovoltaic Devices, as prescribed in 225.7017-4(a), to comply with section 846 of Public Law 111-383.

(L) Use the provision at [252.225-7018](#), Photovoltaic Devices - Certificate, as prescribed in [225.7017-4\(b\)](#), to comply with section 846 of Public Law 111-383.

(M) Use the provision at [252.225-7020](#), Trade Agreements Certificate, to comply with 19 U.S.C. 2501-2518 and 19 U.S.C. 4501-4732. Alternate I also implements section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181).

(1) Use the basic provision as prescribed in [225.1101\(5\)\(i\)](#).

(2) Use the alternate I provision as prescribed in [225.1101\(5\)\(ii\)](#).

(N) Use the clause at [252.225-7021](#), Trade Agreements, to comply with 19 U.S.C. 2501-2518 and 19 U.S.C. 4501-4732.

(1) Use the basic clause as prescribed in [225.1101\(6\)\(i\)](#).

(2) Use the alternate II clause as prescribed in [225.1101\(6\)\(iii\)](#).

(O) Use the provision at [252.225-7023](#), Preference for Products or Services from Afghanistan, as prescribed in [225.7703-4\(a\)](#), to comply with section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181).

(P) Use the clause at [252.225-7024](#), Requirement for Products or Services from Afghanistan, as prescribed in [225.7703-4\(b\)](#), to comply with section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181).

(Q) Use the clause at [252.225-7026](#), Acquisition Restricted to Products or Services from Afghanistan, as prescribed in [225.7703-4\(c\)](#), to comply with section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181).

(R) Use the clause at [252.225-7027](#), Restriction on Contingent Fees for Foreign Military Sales, as prescribed in [225.7307\(a\)](#), to comply with 22 U.S.C. 2779.

(S) Use the clause at [252.225-7028](#), Exclusionary Policies and Practices of Foreign Governments, as prescribed in [225.7307\(b\)](#), to comply with 22 U.S.C. 2755.

(T) Use the clause at [252.225-7029](#), Acquisition of Uniform Components for Afghan Military or Afghan National Police, as prescribed in [225.7703-4\(d\)](#).

(U) Use the provision at [252.225-7031](#), Secondary Arab Boycott of Israel, as prescribed in [225.7605](#), to comply with 10 U.S.C. 4659.

(V) Use the provision at [252.225-7035](#), Buy American - Free Trade Agreements - Balance of Payments Program Certificate, to comply with 41 U.S.C. chapter 83 and 19 U.S.C. 4501-4732. Alternates II, III, and V also implement section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181).

(1) Use the basic provision as prescribed in [225.1101\(9\)\(i\)](#).

(2) Use the alternate I provision as prescribed in [225.1101\(9\)\(ii\)](#).

(3) Use the alternate II provision as prescribed in [225.1101\(9\)\(iii\)](#).

(4) Use the alternate III provision as prescribed in [225.1101\(9\)\(iv\)](#).

(5) Use the alternate IV provision as prescribed in [225.1101\(9\)\(v\)](#).

(6) Use the alternate V provision as prescribed in [225.1101\(9\)\(vi\)](#).

(W) Use the clause at [252.225-7036](#), Buy American - Free Trade Agreements - Balance of Payments Program, to comply with 41 U.S.C. chapter 83 and 19 U.S.C. 4501-4732. Alternates II, III, and V also implement section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181).

(1) Use the basic clause as prescribed in [225.1101\(10\)\(i\)\(A\)](#).

(2) Use the alternate I clause as prescribed in [225.1101\(10\)\(i\)\(B\)](#).

(3) Use the alternate II clause as prescribed in [225.1101\(10\)\(i\)\(C\)](#).

(4) Use the alternate III clause as prescribed in [225.1101\(10\)\(i\)\(D\)](#).

(5) Use the alternate IV clause as prescribed in [225.1101\(10\)\(i\)\(E\)](#).

(6) Use the alternate V clause as prescribed in [225.1101\(10\)\(i\)\(F\)](#).

(X) Use the provision at [252.225-7037](#), Evaluation of Offers for Air Circuit Breakers, as prescribed in [225.7006-4\(a\)](#), to comply with 10 U.S.C. 4864(a)(3).

(Y) Use the clause at [252.225-7038](#), Restriction on Acquisition of Air Circuit Breakers, as prescribed in [225.7006-4\(b\)](#), to comply with 10 U.S.C. 4864(a)(3).

(Z) Use the clause at [252.225-7039](#), Defense Contractors Performing Private Security Functions Outside the United States, as prescribed in [225.302-6](#), to comply with section 2 of Pub. L. 110-181, as amended.

(AA) Use the clause at [252.225-7040](#), Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States, as prescribed in [225.371-5\(a\)](#).

(BB) Use the clause at [252.225-7043](#), Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States, as prescribed in [225.372-2](#).

(CC) Use the provision at [252.225-7049](#), Prohibition on Acquisition of Certain Foreign Commercial Satellite Services - Representations, as prescribed in [225.772-5\(a\)](#), to comply with 10 U.S.C. 2279.

(DD) Use the provision at [252.225-7050](#), Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism, as prescribed in [225.771-5](#), to comply with 10 U.S.C. 4871(b).

(EE) Use the clause at [252.225-7051](#), Prohibition on Acquisition for Certain Foreign Commercial Satellite Services, as prescribed in [225.772-5\(b\)](#), to comply with 10 U.S.C. 2279.

(FF) Use the clause at [252.225-7052](#), Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten, as prescribed in [225.7018-5](#), to comply with 10 U.S.C. 4872.

(GG) Use the provision at [252.225-7053](#), Representation Regarding Prohibition on Use of Certain Energy Sourced from Inside the Russian Federation, as prescribed in [225.7019-4\(a\)](#), to comply with section 2821 of the National Defense Authorization Act for Fiscal Year 2020 ([Pub. L. 116-92](#)).

(HH) Use the clause at [252.225-7054](#), Prohibition on Use of Certain Energy Sourced from Inside the Russian Federation, as prescribed in [225.7019-4\(b\)](#), to comply with section 2821 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92).

(II) Use the provision at [252.225-7055](#), Representation Regarding Business Operations with the Maduro Regime, as prescribed in [225.7020-5\(a\)](#), to comply with section 890 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92).

(JJ) Use the clause at [252.225-7056](#), Prohibition Regarding Business Operations with the Maduro Regime, as prescribed in [225.7020-5\(b\)](#), to comply with section 890 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92).

(KK) Use the provision at [252.225-7059](#), Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region—Certification, as prescribed in [225.7022-5\(a\)](#), to comply with section 848 of the National Defense Authorization Act for Fiscal Year 2022 (Pub. L. 117-81).

(LL) Use the clause at [252.225-7060](#), Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region, as prescribed in [225.7022-5\(b\)](#), to comply with section 848 of the National Defense Authorization Act for Fiscal Year 2022 (Pub. L. 117-81).

(xi) *Part 226 - Other Socioeconomic Programs.* (A) Use the clause at [252.226-7001](#), Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns, as prescribed in [226.104](#), to comply with section 8021 of Pub. L. 107-248 and similar sections in subsequent DoD appropriations acts.

(B) Use the provision at [252.226-7002](#), Representation for Demonstration Project for Contractors Employing Persons with Disabilities, as prescribed in [226.7203](#).

(xii) *Part 227 - Patents, Data, and Copyrights.* (A) Use the clause at [252.227-7013](#), Rights in Technical Data-Noncommercial Items, as prescribed in [227.7103-6\(a\)](#). Use the clause with its Alternate I as prescribed in [227.7103-6\(b\)\(1\)](#). Use the clause with its Alternate II as prescribed in [227.7103-6\(b\)\(2\)](#), to comply with 10 U.S.C. 8687 and 17 U.S.C. 1301, *et seq.*

(B) Use the clause at [252.227-7015](#), Technical Data-Commercial Items, as prescribed in [227.7102-4\(a\)\(1\)](#), to comply with 10 U.S.C. 3772(a). Use the clause with its Alternate I as prescribed in [227.7102-4\(a\)\(2\)](#), to comply with 10 U.S.C. 8687 and 17 U.S.C. 1301, *et seq.*

(C) Use the clause at [252.227-7037](#), Validation of Restrictive Markings on Technical Data, as prescribed in [227.7102-4\(c\)](#).

(xiii) *Part 229—Taxes.* Use the clause at [252.229-7014](#), Full Exemption from Two-Percent Excise Tax on Certain Foreign Procurements, as prescribed in [229.402-70](#), to comply with 26 U.S.C. 5000C.

(xiv) *Part 232 - Contract Financing.* (A) Use the clause at [252.232-7003](#), Electronic Submission of Payment Requests and Receiving Reports, as prescribed in [232.7004](#), to comply with 10 U.S.C. 4601.

(B) Use the clause at [252.232-7006](#), Wide Area WorkFlow Payment Instructions, as prescribed in [232.7004\(b\)](#).

(C) Use the clause at [252.232-7009](#), Mandatory Payment by Governmentwide Commercial Purchase Card, as prescribed in [232.1110](#).

(D) Use the clause at [252.232-7010](#), Levies on Contract Payments, as prescribed in [232.7102](#).

(E) Use the clause at [252.232-7011](#), Payments in Support of Emergencies and Contingency Operations, as prescribed in 232.908.

(F) Use the provision at [252.232-7014](#), Notification of Payment in Local Currency (Afghanistan), as prescribed in 232.7202.

(G) Use the clause at [252.232-7017](#), Accelerating Payments to Small Business Subcontractors - Prohibition on Fees and Consideration, as prescribed in [232.009-2\(2\)](#), to comply with 10 U.S.C. 3801.

(xv) *Part 237 - Service Contracting.*

(A) Use the clause at [252.237-7010](#), Prohibition on Interrogation of Detainees by Contractor Personnel, as prescribed in [237.173-5](#), to comply with section 1038 of Pub. L. 111-84.

(B) Use the clause at [252.237-7019](#), Training for Contractor Personnel Interacting with Detainees, as prescribed in [237.171-4](#), to comply with section 1092 of Pub. L. 108-375.

(C) Use the provision at [252.237-7025](#), Preaward Transparency Requirements for Firms Offering to Support Department of Defense Audits—Representation and Disclosure, as prescribed in [237.270\(e\)\(3\)](#), to comply with section 1006 of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) and section 1011 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92).

(D) Use the clause at [252.237-7026](#), Postaward Transparency Requirements for Firms that Support Department of Defense Audits, as prescribed in [237.270\(e\)\(4\)](#), to comply with section 1006 of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) and section 1011 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92).

(xvi) *Part 239 - Acquisition of Information Technology.* (A) Use the provision [252.239-7009](#), Representation of Use of Cloud Computing, as prescribed in [239.7604\(a\)](#).

(B) Use the clause [252.239-7010](#), Cloud Computing Services, as prescribed in [239.7604\(b\)](#).

(C) Use the provision at [252.239-7017](#), Notice of Supply Chain Risk, as prescribed in [239.7306\(a\)](#), to comply with 10 U.S.C. 3252.

(D) Use the clause at [252.239-7018](#), Supply Chain Risk, as prescribed in [239.7306\(b\)](#), to comply with 10 U.S.C. 3252.

(xvii) *Part 243 - Contract Modifications.* Use the clause at [252.243-7002](#), Requests for Equitable Adjustment, as prescribed in [243.205-71](#), to comply with 10 U.S.C. 3862.

(xviii) *Part 244 - Subcontracting Policies and Procedures.* Use the clause at [252.244-7000](#), Subcontracts for Commercial Items, as prescribed in [244.403](#).

(xix) *Part 246 - Quality Assurance.*

(A) Use the clause at [252.246-7003](#), Notification of Potential Safety Issues, as prescribed in [246.370\(a\)](#).

(B) Use the clause at [252.246-7004](#), Safety of Facilities, Infrastructure, and Equipment for Military Operations, as prescribed in [246.270-4](#), to comply with section 807 of Pub. L. 111-84.



(C) Use the clause at 252.246-7008, Sources of Electronic Parts, as prescribed in 246.870-3(b), to comply with section 818(c)(3) of Public Law 112-81, as amended by section 817 of the National Defense Authorization Act for Fiscal Year 2015 (Pub. L. 113-291 and section 885 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114-92).

(xx) *Part 247 - Transportation.*

(A) Use the clause at 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer, as prescribed in 247.207, to comply with section 884 of Pub. L. 110-417.

(B) Use the provision at 252.247-7022, Representation of Extent of Transportation by Sea, as prescribed in 247.574(a).

(C) Use the basic or one of the alternates of the clause at 252.247-7023, Transportation of Supplies by Sea, as prescribed in 247.574(b), to comply with the Cargo Preference Act of 1904 (10 U.S.C. 2631(a)).

(1) Use the basic clause as prescribed in 247.574(b)(1).

(2) Use the alternate I clause as prescribed in 247.574(b)(2).

(3) Use the alternate II clause as prescribed in 247.574(b)(3).

(D) Use the clause 252.247-7025, Reflagging or Repair Work, as prescribed in 247.574(c), to comply with 10 U.S.C. 2631(b).

(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, as prescribed in 247.574(d), to comply with section 1017 of Pub. L. 109-364.

(F) Use the clause at 252.247-7027, Riding Gang Member Requirements, as prescribed in 247.574(e), to comply with section 3504 of the National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417).

(G) Use the clause at 252.247-7028, Application for U.S. Government Shipping Documentation/Instructions, as prescribed in 247.207.

## **212.302 Tailoring of provisions and clauses for the acquisition of commercial items.**

(c) *Tailoring inconsistent with customary commercial practice.*

The head of the contracting activity is the approval authority within the DoD for waivers under FAR 12.302(c).