

SUBCHAPTER II—CHARTERS

§ 57511. Demise charters

A charter by the Secretary of Transportation under this chapter shall demise the vessel to the charterer subject to all usual conditions contained in a bareboat charter. The charter shall be for a term the Secretary considers to be in the best interest of the United States Government and the merchant marine.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1666.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
57511	46 App.:1201.	June 29, 1936, ch. 858, title VII, §711, 49 Stat. 2010; Pub. L. 97–31, §12(113), Aug. 6, 1981, 95 Stat. 163.

The words “for a term the Secretary considers to be” are substituted for “until January 1, 1940, shall be for terms of three years or less as the Secretary of Transportation may decide: *Provided*, That after January 1, 1940, charters may be executed by the Secretary of Transportation for such terms as the experience gained by the Secretary of Transportation shall indicate are” to eliminate unnecessary and obsolete words.

§ 57512. Competitive bidding

(a) IN GENERAL.—The Secretary of Transportation may charter a vessel of the Department of Transportation to a private operator only on the basis of competitive sealed bidding. The bids must be submitted in strict compliance with the terms and conditions of a public advertisement soliciting the bids.

(b) ADVERTISEMENT FOR BIDS.—An advertisement for bids shall state—

- (1) the number, type, and tonnage of the vessels being offered for bareboat charter for operation as a steamship line on a designated trade route;
- (2) the minimum number of sailings required;
- (3) the length of time of the charter;
- (4) the right of the Secretary to reject all bids; and
- (5) other information the Secretary considers necessary for the information of prospective bidders.

(c) OPENING OF BIDS.—Bids required under this section shall be opened at the time and place stated in the advertisement for bids. All interested persons, including representatives of the press, shall be permitted to attend. The results of the bidding shall be publicly announced.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1666.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
57512(a)	46 App.:1196(a) (1st sentence).	June 29, 1936, ch. 858, title VII, §706(a), (b) (1st sentence related to announcement), 49 Stat. 2009; Pub. L. 97–31, §12(108), Aug. 6, 1981, 95 Stat. 163.
57512(b)	46 App.:1196(a) (last sentence), (b) (1st sentence related to announcement).	

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
57512(c)	46 App.:1193(c) (related to chartering).	June 29, 1936, ch. 858, title VII, §703(c) (related to chartering), 49 Stat. 2008; Pub. L. 97–31, §12(105), Aug. 6, 1981, 95 Stat. 163.

Subsection (b)(4) is substituted for “announce in his advertisements for bids that the Secretary of Transportation reserves the right to, reject any and all bids submitted” in 46 App. U.S.C. 1196(b) to improve the organization.

In subsection (c), the words “Bids required under this section” are substituted for “All bids required by the Secretary of Transportation . . . and for the chartering of the Secretary’s vessels hereinafter provided for” to eliminate unnecessary words. The word “hour” is omitted as covered by “time”.

§ 57513. Minimum bid

The Secretary of Transportation shall reject any bid for the charter under this subchapter of a vessel constructed under this subtitle or the Merchant Marine Act, 1936, if the charter hire offered is lower than the minimum charter hire would be if the vessel were chartered under section 57531 of this title.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1666.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
57513	46 App.:1196(b) (last sentence).	June 29, 1936, ch. 858, title VII, §706(b) (last sentence), as added Aug. 4, 1939, ch. 417, §11(b), 53 Stat. 1186; Pub. L. 97–31, §12(108), Aug. 6, 1981, 95 Stat. 163.

REFERENCES IN TEXT

The Merchant Marine Act, 1936, referred to in text, is act June 29, 1936, ch. 858, 49 Stat. 1985, which was classified principally to chapter 27 (§1101 et seq.) of the former Appendix to this title. The Act, with the exception of title V, most of title VI, and sections 301, 801, 802, 809(a), and 909 thereof, was repealed and restated, mainly in this subtitle, by Pub. L. 109–304, §§8, 19, Oct. 6, 2006, 120 Stat. 1555, 1710. Title V and sections 301 and 909 of the Act are set out as notes under section 53101 of this title. Those portions of title VI not repealed by Pub. L. 109–304 and sections 802 and 809(a) of the Act were repealed by Pub. L. 114–120, title III, §313(a), Feb. 8, 2016, 130 Stat. 58. Section 801 of the Act was transferred to section 57522 of this title by Pub. L. 114–120, title III, §313(c)(1)(A), Feb. 8, 2016, 130 Stat. 58. For complete classification of the Act to the Code, see Tables. For disposition of sections of the former Appendix to Title 46, see Disposition Table preceding section 101 of this title.

§ 57514. Qualifications of bidders

(a) CONSIDERATIONS.—In deciding whether to award a charter to a bidder, the Secretary of Transportation shall consider—

- (1) the bidder’s financial resources, credit standing, and practical experience in operating vessels; and
- (2) other factors a prudent business person would consider in entering into a transaction involving a large capital investment.

(b) DISQUALIFICATIONS.—The Secretary may not charter a vessel to a person appearing to

lack sufficient capital, credit, and experience to operate the vessel successfully over the period covered by the charter.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1666.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
57514	46 App.:1203.	June 29, 1936, ch. 858, title VII, §713, 49 Stat. 2010; Pub. L. 97–31, §12(115), Aug. 6, 1981, 95 Stat. 164.

§ 57515. Awarding of charters

(a) IN GENERAL.—The Secretary of Transportation shall award the charter to the bidder proposing to pay the highest monthly charter hire. However, the Secretary may reject the highest or most advantageous or any other bid if the Secretary considers the charter hire offered too low or determines that the bidder lacks the qualifications required by section 57514 of this title.

(b) HIGHEST BID REJECTED.—If the Secretary rejects the highest bid, the Secretary may—

(1) award the charter to the next highest bidder; or

(2) reject all bids and either readvertise the line or operate the line until conditions appear more favorable to reoffer the line for private charter.

(c) REASON FOR REJECTION.—On request of a bidder, the reason for rejection shall be stated in writing to the bidder.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1667.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
57515	46 App.:1196(b) (1st sentence related to authority).	June 29, 1936, ch. 858, title VII, §§706(b) (1st sentence related to authority), 707, 49 Stat. 2009; Pub. L. 97–31, §12(108), (109), Aug. 6, 1981, 95 Stat. 163.
	46 App.:1197.	

In subsection (a), the words “if the Secretary considers the charter hire offered too low” are substituted for “if, in the Secretary’s discretion, the charter hire offered is deemed too low” to eliminate unnecessary words. The words “lacks the qualifications required by section 57514 of this title” are substituted for “lacks sufficient capital, credit, or experience to operate successfully the line” to avoid repeating the qualifications in more than one place.

§ 57516. Operating-differential subsidies

If the Secretary of Transportation considers it necessary, the Secretary may make a contract with a charterer of a vessel owned by the Secretary for payment of an operating-differential subsidy, on the same terms and conditions, and subject to the same limitations and restrictions, as otherwise provided with respect to payment of operating-differential subsidies to operators of privately-owned vessels.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1667.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
57516	46 App.:1198.	June 29, 1936, ch. 858, title VII, §708, 49 Stat. 2009; June 23, 1938, ch. 600, §31, 52 Stat. 962; Pub. L. 97–31, §12(110), Aug. 6, 1981, 95 Stat. 163.

§ 57517. Recovery of excess profits

(a) IN GENERAL.—A charter under this chapter shall provide that if, at the end of a calendar year subsequent to the execution of the charter, the cumulative net voyage profit (after payment of the charter hire reserved in the charter and payment of the charterer’s fair and reasonable overhead expenses applicable to operation of the chartered vessel) exceeds 10 percent a year of the charterer’s capital necessarily employed in the business of the chartered vessel, the charterer shall pay to the Secretary of Transportation, as additional charter hire, half the cumulative net voyage profit in excess of 10 percent a year. However, any cumulative net voyage profit accounted for under this subsection is not to be included in the calculation of cumulative net voyage profit in any subsequent year.

(b) TERMS TO BE DEFINED AND USED.—The Secretary shall define the terms “net voyage profit”, “fair and reasonable overhead expenses”, and “capital necessarily employed” for this section. Each advertisement for bids and each charter shall contain these definitions, stating the formula for determining each of these three amounts.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1667.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
57517	46 App.:1199.	June 29, 1936, ch. 858, title VII, §709, 49 Stat. 2010; Pub. L. 97–31, §12(111), Aug. 6, 1981, 95 Stat. 163.

§ 57518. Performance bond

The Secretary of Transportation shall require a charterer of a vessel of the Secretary to deposit with the Secretary an undertaking, with approved sureties, in such amount as the Secretary may require as security for the faithful performance of the terms of the charter, including indemnity against liens on the chartered vessel.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1667.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
57518	46 App.:1200.	June 29, 1936, ch. 858, title VII, §710, 49 Stat. 2010; Pub. L. 97–31, §12(112), Aug. 6, 1981, 95 Stat. 163.

§ 57519. Insurance

A charter under this chapter shall require the charterer to carry, at the charterer’s expense, insurance on the chartered vessel covering all marine and port risks, protection and indemnity risks, and all other hazards and liabilities, ade-