

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 suc-

cessfully 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

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
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, adequate to cover damages claimed against and losses sustained by the chartered vessel arising during the term of the charter. The insurance shall be in such form, in such amount, and with such companies as the Secretary of Transportation may require. In accordance with law, any of the insurance risks may be underwritten by the Secretary.

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

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
57519	46 App.:1202(a).	June 29, 1936, ch. 858, title VII, §712(a), 49 Stat. 2010; Aug. 7, 1939, ch. 555, §1, 53 Stat. 1254; Pub. L. 97-31, §12(114), Aug. 6, 1981, 95 Stat. 163.

§ 57520. Vessel maintenance

(a) IN GENERAL.—A charter under this chapter shall require the charterer, at the charterer's expense, to—

- (1) keep the chartered vessel in good repair and efficient operating condition; and
- (2) make any repairs required by the Secretary of Transportation.

(b) INSPECTION.—The charter shall provide that the Secretary has the right to inspect the vessel at any time to ascertain its condition.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1668.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
57520	46 App.:1202(b), (c).	June 29, 1936, ch. 858, title VII, §712(b), (c), 49 Stat. 2010; Aug. 7, 1939, ch. 555, §1, 53 Stat. 1254; Pub. L. 97-31, §12(114), Aug. 6, 1981, 95 Stat. 163.

§ 57521. Termination of charter during national emergency

A charter under this chapter shall provide that during a national emergency proclaimed by the President or a period for which the President has proclaimed that the security of the national defense makes it advisable, the Secretary of Transportation may terminate the charter without cost to the United States Government on such notice to the charterer as the President determines.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1668.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
57521	46 App.:1202(d).	June 29, 1936, ch. 858, title VII, §712(d), 49 Stat. 2010; Aug. 7, 1939, ch. 555, §1, 53 Stat. 1254; Pub. L. 97-31, §12(114), Aug. 6, 1981, 95 Stat. 163.

§ 57522. Books and records, balance sheets, and inspection and auditing

Every contract executed by the Secretary of Transportation under this chapter shall contain provisions requiring (1) that, the contractor and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by, the contractor, to keep its books, records, and accounts, relating to the maintenance, operation, and servicing of the vessels, services, routes, and lines covered by the contract, in such form and under such regulations as may be prescribed by the Secretary of Transportation; (2) that the contractor and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by, the contractor, to file, upon notice from the Secretary of Transportation, balance sheets, profit and loss statements, and such other statements of financial operations, special report, memoranda of any facts and transactions, which in the opinion of the Secretary of Transportation affect the financial results in, the performance of, or transactions or operations under, such contract; (3) that the Secretary of Transportation shall be authorized to examine and audit the books, records, and accounts of all persons referred to in this section whenever he may deem it necessary or desirable; and (4) that upon the willful failure or refusal of any person described in this section to comply with the contract provisions required by this section, the Secretary of Transportation shall have the right to rescind the contract, and upon such rescission, the United States shall be relieved of all further liability on such contract.

(Added and amended Pub. L. 114-120, title III, §313(c)(1), Feb. 8, 2016, 130 Stat. 58.)

Editorial Notes

CODIFICATION

Section consists of text of act June 29, 1936, ch. 858, title VIII, §801, 49 Stat. 2011, as amended by Pub. L. 97-31, §12(119), Aug. 6, 1981, 95 Stat. 164. Section 801 of act June 29, 1936, ch. 858, which was formerly set out as a note under section 53101 of this title, was transferred to this section by Pub. L. 114-120, title III, §313(c)(1)(A), Feb. 8, 2016, 130 Stat. 58.

AMENDMENTS

2016—Pub. L. 114-120, §313(c)(1)(B)(i), inserted “Books and records, balance sheets, and inspection and auditing” in section catchline.

Pub. L. 114-120, §313(c)(1)(B)(ii), which directed substitution of “this chapter” for “the provision of title VI or VII of this Act”, was executed by making the substitution for “the provisions of title VI or VII of this Act” to reflect the probable intent of Congress.

Pub. L. 114-120, §313(c)(1)(B)(iii), struck out “: Provided, That the provisions of this paragraph shall not require the duplication of books, records, and ac-