

Sponsored Programs Monthly



Fly America Act & Open Skies Agreements

The Fly America Act is a law which mandates the use of U.S. airline carriers for all foreign air travel (including all parts of a trip) paid with federal funds, regardless of cost or convenience. Since this is a congressional mandate, this rule applies whether or not it is included in the terms and conditions of any specific award. This law does provide some exceptions. Our office has developed an exceptions checklist (attached and available on eForms) for use in helping determine if the travel you are arranging falls within one of the exceptions. Please advise faculty and staff who may book airfare that a U.S. airline must be used for all federally funded air travel unless they meet one of the exceptions. If airfare is booked on a non-U.S. airline and it does not fall within one of the exceptions, it will be deemed unallowable and must be charged to a non-federal fund source.

Open Skies Agreements:

One exception is travel on airlines from countries with Open Skies Agreements*. In recent years, the U.S. government has executed four agreements to allow an exception to the Fly America Act. These agreements are long and cover much more than the Fly America Act exception. The checklist does not list the countries that have these agreements because new agreements may be added and, perhaps, terminated. The checklist includes a link to the website where the most current agreements are listed. As of today, the four agreements and the section concerning the Fly America Act exception are:

- European Union (Annex 3: Concerning U.S. Government Procured Transportation) – this agreement lists the countries within the European Union that are included on the initial pages
- Australia (Article 14: U.S. Government Procured Transportation)
- Switzerland (Annex II: U.S. Government Procured Transportation)
- Japan (Part XI: U.S. Government Procured Transportation)

Note: All Open Skies Agreements exclude funding from Secretary of Defense (meaning those funds awarded by the Defense Dept cannot use the Open Skies exception). If you are responsible for booking travel, you may want to visit the Open Skies Agreements website periodically to see if and when new agreements are added.

*Not all Open Skies Agreements allow for an exception to the Fly America Act. The U.S. State Dept website lists over 100 agreements. As of the date of this newsletter, only the four listed in this newsletter include the Fly America Act exception.

Fly America Act – Exception Form

All air travel funded by federal dollars must adhere to the Fly America Act in accordance with 41 CFR Part 301-10. Exceptions are listed below. The complete CFR chapter can be found here: <http://www.gsa.gov/portal/ext/public/site/FTR/file/Chapter301p010.html/category/21868/>

U.S. flag air carriers must be used for ALL air travel (including all parts of a trip) paid with federal funds regardless of cost of the ticket, convenience or personal preference. (41 CFR Part 301-10.139)
All costs not conforming to the Fly America Act must be charged to a non-federal funding source.

Name of Traveler(s): _____

Name(s) of Foreign Air Carrier: _____ Dates of Travel: _____

Please check any of the following exceptions that may apply and attach this form (with supporting documentation) to the payment document.

Foreign airline used has a code share agreement with a U.S. airline. Airline ticket should identify the U.S. flag air carrier's designator code and flight number (41 CFR Part 301-10.134)

Air travel is provided under a bilateral or multilateral air transportation agreement to which the U.S. Gov't and the gov't of a foreign country are parties. See www.gsa.gov/openskies for those agreements (41 CFR Part 301-10.135(b)).
Funds from Secretary of Defense cannot use this exception per the Open Skies Agreements.

No U.S. flag air carrier provides service on a particular leg of the route, in which case foreign air carrier service may be used, but only to or from the nearest interchange point on a usually traveled route to connect with U.S. flag air carrier service (41 CFR Part 301-10.135(d))

U.S. flag air carrier involuntarily rerouted your travel on a foreign air carrier (41 CFR Part 301-10.135(e))

Service on a foreign air carrier would be three hours or less, and use of the U.S. flag air carrier would at least double your en route travel time (41 CFR Part 301-10.135(f))

Travel between U.S. and another country. U.S. flag air carrier offers nonstop or direct service (no aircraft change) from your origin to your destination, but use of the U.S. flag air carrier service would extend your travel time, including delay at origin, by 24 hours or more (41 CFR Part 301-10.136(a))

U.S. flag air carrier increases the # of aircraft changes outside of the U.S. by 2 or more (41 CFR Part 301-10.136(b))

U.S. flag air carrier extends your travel time by at least 6 hours or more

U.S. flag air carrier requires a connecting time of 4 hours or more at an overseas interchange point

Medical reason (i.e. to reduce the # of connections, etc). (41 CFR Part 301-10.138(b)(1))

To avoid unreasonable risk to your safety and has been approved by federal agency. (41 CFR Part 301-10.138(b)(2))

U.S. flag air carrier was unavailable. Provide documentation that no flights or seats were available (i.e. print screen from travel booking website). (41 CFR Part 301-10.138(b)(3))
