

TIGER TIPS
RESOURCES FOR AUBURN RESEARCHERS
The Fly America Act

DEFINITIONS

1. **The Fly America Act.** The "Fly America Act" refers to the provisions enacted by section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (pub. L. 93-624, Jan. 3, 1975), 49 U.S.C. App. 1517, as amended by section 21 of the International Air Transportation Competition Act of 1979 (Pub. L. 96-192, Feb. 15, 1980). 94 Stat. 43.

2. **U.S. Flag Air Carrier.** The term "U.S. flag air carrier" means an air carrier holding a certificate under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1371). Foreign air carriers operating under permits are excluded.

3. **United States.** For purposes of the Fly America Act, "United States" means the 50 states, the District of Columbia, and the territories and possessions of the United States (49 U.S.C. App. 1301(38)).

OVERVIEW

Federal requirements (i.e. Fly America Act) state that domestic grantees must use U.S. flag air carriers to the maximum extent possible. Any air transportation to, from, between or within a country other than the U.S. of persons or property paid for from U.S. federal funds must be performed by or under a code-sharing arrangement with a U.S. flag air carrier if service provided by such carrier is available. Tickets or documentation for electronic tickets must identify the US flag air carrier's designator code and flight number.

For purposes of this requirement, the U.S. flag air carrier service is considered available even in situations when comparable or a different kind of service can be provided at less cost by a foreign flag carrier, or foreign flag carrier service is preferred or more convenient.

There are limited exceptions that only apply when your travel is between the U.S. and another country:

- If a U.S. flag air carrier offers nonstop or direct service (no aircraft change) from your origin to your destination, you have to use a U.S. air carrier, UNLESS, use of the U.S. air carrier would extend your travel time, including a delay at your origin, by 24 hours or more.
- If a U.S. flag air carrier does not offer nonstop or direct service (no aircraft change) between your origin and your destination, you MUST use a U.S. air carrier on every portion of your route where the U.S. air carrier provides service, unless, when compared to using a foreign air carrier, use of the U.S. air carrier would:

- Increase the number of aircraft changes you make outside the U.S. by 2 or more;
- The use of the U.S. air carrier would extend your travel time by at least 6 hours or more; or
- The use of a U.S. air carrier would require a connecting time of 4 hours or more at an overseas interchange point.

When you travel solely outside the U.S., and a U.S. flag air carrier provides service between your origin and destination, you have to use the U.S. flag air carrier unless when compared to using a foreign air carrier, use of the U.S. flag air carrier would:

- Increase the number of aircraft changes you have to make en route by 2 or more;
- Extend your travel time by 6 hours or more; or
- Require a connecting time of 4 hours or more at an overseas interchange point.

For all **short distance** travel, regardless of origin and destination, U.S. flag air carrier service will not be considered available when the elapsed travel time on a scheduled flight from origin to destination airport by a foreign air carrier is 3 hours or less and service by U.S. flag air carrier would involve twice the travel time.

OPEN SKIES AGREEMENTS

An exception to the Fly America Act requiring travel on US Flag Carrier airlines is transportation provided under a bilateral or multilateral air transportation agreement to which the United States 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 such as the Open Skies Agreement.

The [Open Skies Agreement between the United States \(US\) Government and the European Union \(EU\)](#), [Australia](#), [Japan](#) and [Switzerland](#) gives Community airlines (airlines of Member States) the right to transport passengers and cargo on scheduled and charter flights funded by the US Government, including transportation provided to or for a foreign country or international or other organization without reimbursement, when the transportation is between a point in the United States and any point in a Member State or between any two points outside the United States except when:

- Transportation is between points for which there is a GSA City-Pair contract fare in effect for air passenger transportation services, or
- Transportation is obtained or funded by the Secretary of Defense or the Secretary of a military department.

POINTS TO CONSIDER WHEN BOOKING FOREIGN GRANT TRAVEL

- Not all sponsors accept the Open Skies agreement, so before booking any non-US Carriers, it would be wise to review the applicable award terms and conditions. If in doubt, be sure to contact the appropriate [Contract Administrator](#) within the Office of Sponsored Programs.
- The best way to book the flight and to ensure compliance with the Fly America Act is to go directly through a U.S. Flag Air Carrier, but if you have to use a travel website or travel agency, then you should verify that the flights you are purchasing are being issued by the U.S. Flag Air Carrier. Travel agencies are not always aware of the source of funds you are using to pay for travel and the need to fly on a U.S. Flag Air Carrier. Travel websites and travel agents typically try to find the lowest priced travel itinerary that meets your needs and this may not always be on a U.S. Flag Air Carrier. When booking travel, always make sure you let the travel agent know that you must fly on U.S. Flag Air Carriers.
- If a traveler needs to show comparison flights, travel websites such as Expedia, might be a better tool to outline the full scope of travel flight options, which may not be evident going to a Carrier's website only. These sites can be used to easily identify options for travel, **but** booking directly through these sites presents challenges in ensuring compliance with the Fly America Act.
- Code Share flights on US Carriers, operated by Foreign Carriers are allowable under the Fly America Act. The traveler is considered to be on a Code Share flight if he/she purchases a ticket from one carrier but flies on the aircraft carrier of another airline. This would be a ticket that is issued by a U.S. Air Carrier that states "U.S. Air Carrier flight XXXX operated by Foreign Air Carrier." There may be a list of code share partners on the U.S. Air Carrier website, however, not all flights on the partner airlines are operated under a code share agreement. Only flights booked properly through the code share are allowable.
 - **Allowable:** AA 1234 operated by QF 4321 (AA = American Airlines, QF = Qantas Airways)
 - **Unallowable:** QF 4321 operated by AA 1234
- Convenience and cost are **NOT** considerations on whether the use of a Foreign Air Carrier on Federally funded travel can be waived. Although this is contrary to Auburn University policy, and in some cases what one might view as "reasonable" as defined in OMB Circular A-21, unless any of the defined exceptions can be identified and documented, or if the sponsor accepts travel under the Open Skies Agreement, a US Flag Carrier must be used for Federally funded travel.

RESOURCES

- Fly America Act Information
 - [Title 41 - Public Contracts and Property Management Chapter 301 -- Temporary Duty Travel Allowances](#)

- Open Skies Agreement Information
 - [GSA: Airline Open Skies Agreements](#)
 - Federal Travel Regulation (FTR) [Bulletin 11-02](#) and [Bulletin 12-04](#) provides additional information and guidance on Open Skies agreements.

- Airline Designator Code and Country Affiliation Look-Up
 - [Airline Codes Website](#)
 - [Airline Codes](#)

- GSA City-Pair Look-Up
 - [GSA: Airline City Pairs](#)