

FLY AMERICA ACT

Guidelines for International Travel Paid for by the US Government

In order to help clarify the basic rules and regulations of the Fly America Act, CIES has prepared this brochure to assist grantees traveling on international trips being paid for by the U.S. Government. Most of this information is taken directly from Section 301-3.6 of the Federal Travel Regulations (full text available on the General Services Administration Web site: <http://www.gsa.gov>, click on Policy then Travel).

USE OF UNITED STATES AIR FLAG CARRIERS

I. 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)).
4. **Gateway Airport in the United States.** A "*gateway airport in the United States*" means the last airport in the United States from which the traveler's flight departs, or the first airport in the United States at which the traveler's flight arrives.
5. **Gateway Airport Abroad.** "*A gateway airport abroad*" means the airport abroad from which the traveler last embarks enroute to the United States or at which the traveler first debarks incident to travel from the United States.

II. General Requirements of the Fly America Act

The Fly America Act, 49 U.S.C. App. 1517, as implemented in the Comptroller General's guidelines, Decision B-138942, March 31, 1981, requires Federal employees and their dependents, consultants, contractors, grantees, and others performing United States Government financed foreign air travel to travel by U.S. flag air carriers when U.S. flag air carrier service is available. Foreign air carrier service may not be used solely based on the cost of your ticket. You may not use a foreign air carrier solely based on personal preference or convenience for yourself. You must use U.S. flag carrier service unless you meet one of the approved exceptions, listed below.

III. Scheduling Principals. In determining availability of U.S. flag air carrier service, the following scheduling principals should be followed unless their application results in the last or first leg of travel to and from the United States being performed by foreign air carrier:

- U.S. flag air carrier service available at point of origin should be used to destination or, in the absence of direct or through service, to the furthest interchange point on a usually traveled route;
- Where an origin or interchange point is not served by U.S. flag air carrier, foreign air carrier service should be used only to the nearest interchange point on a usually traveled route to connect with U.S. flag carrier service; or,
- Where a U.S. flag air carrier involuntarily re-routes the traveler via a foreign air carrier, the foreign air carrier may be used notwithstanding the availability of alternative U.S. flag air carrier service.

V. Guidelines for Determining Unavailability of U.S. Flag Air Carrier Service

1. Travel to and from the United States: Passenger service by a U.S. flag air carrier will not be considered available when the travel is between a gateway airport in the United States and a gateway airport abroad and the gateway airport abroad is:

- The traveler's origin or destination airport, and the use of U.S. flag air carrier service would extend the time in a travel status, including delay at origin and accelerated arrival at destination, by at least 24 hours more than travel by foreign air carrier.
- An interchange point, and the use of U.S. flag air carrier service would require the traveler to wait 4 hours or more to make connections at that point, or delayed departure from or accelerated arrival at the gateway airport in the United States would extend the time in a travel status by at least 6 hours more than travel by a foreign air carrier.

2. Travel Between Two Points Outside the United States: For travel between two points outside the United States, U.S. flag air carrier service will not be considered to be reasonably available:

- If travel by foreign air carrier would eliminate two or more aircraft changes enroute;
- Where one of the two points abroad is the gateway airport en route to or from the United States, if the use of the U.S. flag air carrier would extend the time in travel status by at least 6 hours more than travel by a foreign air carrier, including accelerated arrival at the overseas destination or delayed departure from the overseas origin, as well as the gateway airport or other interchange point abroad; or,
- Where the travel is not part of a trip to or from the United States, if the use of a U.S. flag air carrier would extend the time in travel status by at least 6 hours more than traveled by foreign air carrier including delay at origin, delay en route and accelerated arrival at destination.

3. Short Distance Travel: 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 foreign air carrier is 3 hours or less and service by U.S. flag air carrier would involve twice the travel time.

4. Code Sharing: U.S. flag carrier service also includes service provided under a code share agreement with a foreign air carrier when the ticket, or documentation for an electronic ticket, identifies the U.S. flag air carrier's designator code and flight number.

USE OF FOREIGN FLAG AIR CARRIERS

I. Necessity for Use of Foreign Air Carrier Service: Use of foreign air carrier service is deemed a necessity when service by a U.S. flag carrier is available, but

- Cannot provide the air transportation needed
- When use of a foreign air carrier is necessary for medical reasons
- When use of a foreign air carrier is required to avoid an unreasonable risk to your safety
- When you cannot purchase a ticket in your authorized class of service on a U.S. flag carrier, and a seat is available in your authorized class of service on a foreign air carrier.

II. Third Party Reimbursement: Foreign air carrier service is allowed when the costs of transportation are reimbursed in full by a third party, such as a foreign government, international agency, or other organization.

January 2007