



OFFICE OF SPONSORED PROGRAMS

Charles R. Drew University of Medicine and Science

Guidance on Travel Costs, Fly American Act and Open Skies Agreement

This guidance has been affected by the OMB Uniform Guidance (UG), [PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS](#), which supersedes requirements from OMB Circulars including A-21, A-110 and A-133 and will be applied consistently to all federal sponsored projects.

This guidance is established to describe the travel guidelines pertaining to sponsored programs at Charles R. Drew University. The overriding purpose is to ensure compliance with the rules and regulations of various funding entities.

All travel expenses charged to federally funded sponsored programs are governed by the cost principles defined by the Office of Management and Budget ("OMB") as part of 2 CFR 200.474. In general, expenses must pass the following three tests in order to be included as direct expenditures on a sponsored project:

- The cost must be allowable under both the provisions of 2 CFR Part 200, Subpart E in addition to the terms of a specific award. Such travel must provide a direct benefit to the project;
- The cost must be allocable - the expense can be associated to a project with a high degree of accuracy;
- The cost must be reasonable - the cost reflects what a "prudent person" would pay in a like circumstance.

If the travel costs are charged directly to the Federal award, documentation must justify that the costs are reasonable and consistent with the non-Federal entity's established travel policy.

As described in 2 CFR 200.474, travel costs may be charged on an actual cost basis, on a per diem, or mileage basis in lieu of actual costs incurred, or on a combination of the two provided the method used is applied to an entire trip and not selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in CDU's non-Federally-funded activities and in accordance with the University's written Travel policy. [Travel Costs and Reimbursements Policy](#).

In addition to the criteria listed above, travel costs must adhere to the University [Travel Policy](#). Items covered by the policy include:

1. Preferred travel agencies and programs
2. Air travel (including travel classes, airline clubs, and cancelled/unused tickets)
3. Lodging

4. Car rental and other transportation costs
5. Meals and entertainment
6. Alcohol
7. Per diem
8. Telephone usage
9. Miscellaneous reimbursable/non-reimbursable expenses
10. Travel and expense reports

Areas where additional guidance or information is necessary to determine the appropriateness of travel costs for sponsored agreements are as follows:

Fly America Act/Open Skies Agreements

The Fly America Act was enacted in 1974 to mandate the use of U.S. flag air carriers for federally funded international travel. Federal travelers are required by 49 U.S.C. 40118, commonly referred to as the "Fly America Act," to use United States air carrier service for all air travel and cargo transportation services funded by the United States Government regardless of cost or convenience.

Before making any arrangements for travel funded by a federal grant or contract, PI and/or department should consult the terms and conditions of the specific award, the approved budget, and review the requirements of the Fly America Act/Open Skies Agreements. The Open Skies Agreements allow non-US Flag carriers to be used for travel in many cases. Please contact the Office of Sponsored Programs to determine if your travel falls within these parameters.

For all other travel, a United States flag air carrier must be used for any/all travel outside the United States. For purposes of this Act, "United States" is defined as the 50 states, the District of Columbia, and United States territories/possessions. This requirement shall not be influenced by cost, convenience, or personal travel plans. Additional circumstances may apply whereby an exception to this Act is appropriate, such as where a Code Sharing Arrangement¹ exists or a US Flag Carrier does not service the route. Use of the Fly America Act Waiver Checklist should be used to identify legitimate exceptions for use of a non-U.S. carrier.

If you are scheduling international travel that is federally funded, you must ensure that all flights, where possible, are scheduled on U.S. flag carriers or on foreign air carriers that code share with a U.S. flag carrier. For purposes of this Act, "United States" is defined as the 50 states, the District of Columbia, and United States territories/possessions. This requirement shall not be influenced by cost, convenience, or personal travel plans. Additional circumstances may apply whereby an exception to this Act is appropriate, such as where a Code Sharing Arrangement¹ exists or a US Flag Carrier does not service the route. Use of the Fly America Act Waiver Checklist should be used to identify legitimate exceptions for use of a non-U.S. carrier. Code sharing occurs when two or more airlines "code" the same flight as if it was their own. In other words, a U.S. airline may sell a seat on the plane of a foreign air carrier; this seat is considered the same as one on a plane operated by a U.S. flag carrier. Compliance with the [Fly America Act](#) is satisfied when the U.S. flag air carrier's designator code is present in the area next to the flight numbers on the airline ticket, boarding pass, or on the documentation for an electronic ticket (passenger receipt).

For example, Delta has a code share agreement with Air France to Paris, France. If the boarding pass (flight coupon) or e-ticket identifies a flight as DL ##, the requirements of the Federal Travel

Regulations would be met, even if the flight was on an Air France airplane. If however, the boarding pass (flight coupon) or e-ticket identifies the flight as an AF ##, then the requirements of the Federal Travel Regulations would not be met.

When booking your air flight, please be sure to advise the travel agencies and/or airline that your trip is federally funded. Any improper use of foreign air carrier service may result in violations of the Fly America Act, and any transportation cost on the foreign carrier will not be payable under federal government funds.

Exceptions to the Fly America Act

The biggest exception to the Fly America Act is the bilateral or multilateral air transportation agreements preferably known as [Open Skies Agreement](#). Although there are over 100 Open Skies agreements which Department of State has negotiated between those countries, currently there are four Open Skies Agreements with the U.S – Switzerland, Australian, Japan, and European Union that meet the requirements of the Fly America Act. The key factor in the four agreements is the statement "for U.S. Government Procured Transportation" in either the Article or Annex 3 of the agreement which explains what is allowed.

On October 6, 2010, the United States and European Union (EU) ["Open Skies" Air Transport Agreement](#) was published by the U.S. General Services Administration providing full explanation of the multilateral agreement in place so that qualifying travelers, whose travel is supported by federal funds, may travel on European Union airlines as well as U.S. Flag Air Carriers. A list of the 29 countries under the EU Open Skies Agreement is below:

1. Austria
2. Belgium
3. Bulgaria
4. Cyprus
5. Czech Republic
6. Denmark
7. Estonia
8. Finland
9. France
10. Germany
11. Greece
12. Hungary
13. Iceland
14. Ireland
15. Italy
16. Latvia
17. Lithuania
18. Luxembourg
19. Malta
20. Netherlands
21. Norway

22. Poland
23. Portugal
24. Romania
25. Slovakia
26. Slovenia
27. Spain
28. Sweden
29. The United Kingdom of Great Britain and Northern Ireland

What do these Open Skies Agreements mean to you?

- European Union:
 - When traveling to a destination serviced by a European Union airline, CDU travelers flying on a Federal grant can fly on either a US carrier or an EU (European Union) carrier as long as they touch down in an EU country.

- Australia:
 - CDU travelers using federal dollars can use an Australian airline only if a point of origin/destination is either the US or Australia and there is no [city-pair contract](#) flight between the two points (origin and destination). If there is a city-pair contract flight, then a U.S. Airline must be used.

- Switzerland
 - CDU travelers using federal dollars can use a Swiss airline only if a point of origin/destination is either the US or Switzerland and there is no [city-pair contract](#) flight between the two points (origin and destination). If there is a city-pair contract flight, then a U.S. Airline must be used.

- Japan
 - CDU travelers using federal dollars can use a Japanese airline only if a point of origin/destination is either the US or Japan and there is no [city-pair contract](#) flight between the two points (origin and destination). If there is a city-pair contract flight, then a U.S. Airline must be used.

Note: CDU travelers on federal funds cannot use city-pair contracts.

There are other exceptions to the Fly America Act which may be appropriate as well. A list of exception criteria may be found in the [Federal Travel Regulation Guidelines](#) – FTR sections 301-10.135-138. *Please note that lower cost and personal convenience are not acceptable criteria for justifying the non-availability of a U.S. –flag air carrier.*

Please note: *Travelers using Department of Defense (DOD) are not permitted to take advantage of Open Sky Agreements. Travelers using DOD funds must use an American carrier, unless they qualify for an exemption as noted in FTR 301-10.135, sections (a), (d), (e), (f), and (g).*

Frequently Asked Questions

The Fly America Act requires that all air travel funded by the Federal government be on US flag air carriers or code-share carriers to the maximum extent possible, unless specific exceptions apply. Below are common questions and their answers asked of OSP pertaining to this requirement. These regulations apply to federal air travel only, unless otherwise specified in the non-federal sponsor's award conditions.

Definition – Code Share Carrier

Q. What is a code-share carrier?

A. A code-share carrier provides seats for another airline on its regularly scheduled flights. Many US airlines have code-share arrangements with other US as well as foreign carriers (e.g., Delta with KLM). Proof of code-share travel is indicated on your ticket stub or documentation for electronic tickets by use of the US air carrier's designator code and flight number (e.g., CO Flight # on a Quantus flight).

The designator codes of US flag air carriers that have international flights are:

Airline	Code
<u>Alaska Airlines</u>	AS
<u>American Airlines</u>	AA
<u>Delta Airlines</u>	DL
<u>Frontier Airlines</u>	F9
<u>United Airlines</u>	UA
<u>Southwest Airlines</u>	WN
<u>JetBlue Airways</u>	B6
<u>Spirit Airlines</u>	NK
<u>Hawaiian Airlines</u>	HA

Please note: Boarding pass without passenger receipt is not acceptable for reimbursement.

Q: Can I pay for the international legs of my trip with personal funds so I can fly the airline of my choice (not a US air carrier), but charge separate legs of the travel within the foreign country to my grant? I've checked and there are no American carriers that fly within the continent that I'm performing my project.

A: If there are no US carriers or code share arrangements for in-country travel, the exceptions allow use of a foreign air carrier. When using federal funds to pay for travel, *you must use the US air flag carrier to the closest point available, unless one of the exceptions applies (41 CFR 301.135(d)).*

Travel paid for with federal funds must comply with the Fly America Act. (41 CFR 301.10-132). Federal regulations exclude international travel paid in full by a third party.

Travel on a Foreign-Flag Carrier

Q: It's cheaper to fly on a foreign flag airline; can I still charge this travel to my grant?

A: Unless your travel itinerary falls under one or more exceptions allowed under the Fly America Act, *you must use US Flag air carriers to the maximum extent possible for all legs of your travel, including foreign 'in-country' travel.*

Foreign In-Country Travel

Q: Do I have to use US flag air carriers/code share carriers when I'm traveling in a foreign country for my research?

A. Yes, if a US flag carrier or code-share carrier is available and the allowable exceptions do not apply (i.e. bi-lateral or multi-lateral agreement is in place), you must use the US flag carrier or code-share carrier for foreign country travel.

If there are no US carriers or code share arrangements for in-country travel, the exceptions allow use of a foreign air carrier. *When using US government funds to pay for travel, you must use the US air flag carrier to the closest point available, unless one of the exceptions applies (41 CFR 301.135(d)).*

Allowable Exceptions

Q. What are the allowable exceptions to the Fly America Act?

A. While ticket cost, personal preference or convenience are not considerations under the Fly America Act, total time and the logistical impact of flying a US carrier or US code-share carrier are relevant concerns.

- Short – distance travel. If service on a foreign-air carrier is three hours or less and travel on a US air carrier would more than double your en route travel time.
- Use of the US air carrier/code-share travel from your point of origin to your destination would extend your travel time, including delay at origin, by more than 24 hours.
- If a US air carrier/code share is not available for travel from your point of origin to your destination, you must use the US carrier/code share carrier for all available legs unless use of the US air carriers/code share carrier would:
 - Increase the number of air craft changes you must make by 2 or more
 - Extend your travel time by 6 hours or more
 - Require a connecting time of 4 hours or more at an international interchange point.
- If a US air carrier/code share carrier is available for travel solely outside the US, you must use the US carrier/code share carrier for all available legs unless use of the US air carriers/code share carrier would:
 - Increase the number of air craft changes you must make by 2 or more
 - Extend your travel time by 6 hours or more
 - Require a connecting time of 4 hours or more at an international interchange point
 - There is an applicable open skies agreement en force and your sponsor is not a defense agency.

- Note: defense agencies require travel from and to the US to be on a US-flag air carrier even when an open skies agreement is in force.
- It is a matter of necessity.

Q. My travel was originally booked on US carriers. My air carrier involuntarily re-routed me to a non-US air carrier. What do I do?

A. Please provide as much documentation of this situation as possible on the Fly American Act Certification of Exemption form on your return. In these exceptional circumstances, your travel will be supported by federal funds.

Matter of Necessity

Q. When is use of a foreign air carrier considered a matter of necessity?

A. Possible considerations include:

- medical reasons to reduce the number of connections needed by persons requiring medical treatment; or
- reduction of unreasonable risk to personal safety. This exception requires approval from the Sponsor and must be supported by relevant travel advisories issued by the FAA and the Department of State (for threats against the air carrier) or other evidence that support the determination.
- You cannot purchase an economy ticket on a US flag air carrier and an economy ticket is available on a foreign air carrier.

Q. When is use of a foreign air carrier NOT considered a matter of necessity?

A. Poor planning on the traveler's part will not be considered a matter of necessity. For example late arrival at the airport because of factors under the traveler's control will not be considered a matter of necessity. The standard of behavior is what a reasonable person would do based on awareness of current facts and circumstances.

Certifying Exceptions

Q. Why do I have to certify exceptions to the Fly America Act?

A. Certification is required by federal regulation: 41 CFR 301.10-141, 142.

Q. What happens if I do not provide the certification of exception with my travel reimbursement?

A: If an exception certification is not provided, the cost of foreign air carrier travel may be borne in whole or in part by non-federal (personal or departmental) funds.

Q: Neither a US flag air carrier nor code-share air carrier is available for one or more legs of my trip. Am I required to certify the exemption?

A. Yes, as required by regulation 41 CFR §301-10.141 While the exception form is preferred, providing comparable information and all support documentation before your international travel to your OSP research administrator will also be accepted.

There are times when an exception may be appropriate. To document the exceptions, OSP relies on the Fly America Act Waiver Checklist. For example, there are instances when: a U.S. flag air carrier does not provide service on a particular leg of your trip; the use of a U.S. carrier will unreasonably delay your travel time; you are involuntarily rerouted; or for medical or safety reasons, etc. Use of the waiver checklist, though not required, will help you document the reason for use of a non-U.S. air carrier when they are required.

Commercial Air Travel

When supported by Federal awards, airfare costs in excess of the basic least expensive unrestricted accommodations class offered by commercial airlines (coach class or similar) are unallowable except when such accommodations would:

- a. Require circuitous routing;
- b. Require travel during unreasonable hours;
- c. Excessively prolonged travel;
- d. Result in additional costs that would offset the transportation savings or
- e. Offer accommodations not reasonably adequate for the traveler's medical needs.

However, the [University's Travel Policy](#) states, "Employees should use the most direct route and the most economical transportation, taking into consideration travel time, expense, absence from campus, and convenience". This policy applies to all travel, regardless of funding source.