



Evolution & Application of Federal Regulation

**(Fly America Act
Open Skies)**

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10/11/2013



Office of Governmentwide Policy (OGP)

GSA Authority

Fly America Act – History

Fly America Act – Exceptions

Liability

Open Skies

Airline Accommodations (Coach/Business/First)

Rest Stop



- ❖ Office of Governmentwide Policy (OGP) created within GSA in 1995 – consolidate policy functions into a single organization
- ❖ Strategic direction – encourage agencies to develop and utilize the best, most effective management practices for conduct of their specific programs
- ❖ Office of Asset and Transportation Management Divisions:
 - Aviation Policy
 - Performance Management
 - Travel and Relocation Policy
 - Motor Vehicle Policy
 - Personal Property Policy
 - Transportation Policy



❖ **United States Code (U.S.C.)**

- Title 5, Government Organization and Employees
- Chapter 57 – Travel, Transportation and Subsistence
- §5707 & §5738 - “The Administrator of General Services shall prescribe regulations necessary for the administration of this subchapter ...”

❖ **Code of Federal Regulations (CFR)**

- Contains the rules and regulations of Federal agencies in a codified format similar to the U.S. Code, which codifies laws enacted by Congress – 50 Titles
- 41 CFR – Public Contracts and Property Management
- Federal Travel Regulations (FTR) Chapters 300-304



❖ Fly America Act

- 49 U.S.C. §40118 (§§1517 & 1518)
- The “Fly America Act” refers to provisions enacted by section 5 of the International Air Transportation Fair Competitive Practices Act of 1974
 - Amended the Federal Aviation Act of 1958 to deal with discriminatory and unfair competitive practices in international air transportation
 - Established a legal requirement that all government-financed air travel be performed by U.S. air carrier services where such service is available



❖ Fly America Act (cont)

- The International Air Transportation Competition Act of 1979 (Public Law 92-192) amended the 1974 Act
 - Allowed the use of foreign carriers if U.S. flagged air carrier services were not “reasonably available” between two foreign points
 - Authorized the U.S. to negotiate the right to carry U.S. Government-financed passenger traffic with foreign governments in return for liberal bilateral agreements
- The Act was repealed by P.L. 103-272 (1994), which promulgated 49 U.S.C. §40118, which is the present day version of the Fly America Act as amended



❖ **U.S. Flag Carrier**

➤ An air carrier holding a certificate under section 401 of the Federal Aviation Act of 1958, 49 U.S.C. 1317 (§41102) - Foreign air carriers operating under permits are excluded

❖ **Code Share**

➤ U.S. Flag carrier chooses to lease seats on a Foreign carrier rather than fly U.S. Flag carrier - meets Fly America Act requirements

➤ Entire ticket flight number issued on U.S. ticket stock validated under U.S. carrier name and code number

❖ **GSA Airline Contract City-Pair Program**

➤ Discounted air transportation for Federal travelers Gov-wide

➤ Unrestricted airfare to over 6000 domestic/international markets



❖ **Exceptions to Fly America Act (overall)**

- Use of a foreign air carrier is determined to be a matter of necessity – mission, non-availability of flight, medical, safety/terrorist threats, non-availability authorized class of service
- The transportation is provided under a bilateral or multilateral air transportation agreement – Open Skies
- Employee of a Foreign Affairs agency (DoS, USIA, USIDC) – travel is between two places outside the U.S.



❖ **Exceptions to Fly America Act (cont)**

- No U.S. flag carrier service on a particular leg of the route, but only to/from the nearest interchange point
- U.S. flag carrier involuntarily reroutes travel on a foreign carrier
- Foreign flag would be less than 3 hours and use of U.S. flag would at least double enroute travel
- Cost of transportation are reimbursed in full by third party



❖ **Exceptions (between the U.S. and another country)**

- U.S. flag air carrier offers nonstop / direct service (no aircraft change) from origin to destination, must use unless such use would extend travel time – including delay at origin, by 24 hours or more



❖ **Exceptions (between the U.S. and another country)**

- If a U.S. flag air carrier does not offer nonstop or direct service (no aircraft change) between origin and destination, traveler must use a U.S. flag air carrier on every portion of the route where it provides service unless, when compared to using a foreign air carrier, such use would:
 - Increase the number of aircraft changes traveler must make outside of the U.S. by 2 or more; or
 - Extend travel time by at least 6 hours or more; or
 - Require a connecting time of 4 hours or more at an overseas interchange point



❖ **Cost factor**

➤ Foreign ticket is less than U.S. flag air carrier - may not be used solely based on the cost of ticket

❖ **Convenient**

➤ Agency/Traveler - must use U.S. flag air carrier service, unless traveler meets one of the exceptions or a matter of necessity

❖ **Certification**

➤ Detailed itinerary of travel to include; dates, origin and destination, air carrier, exceptions as listed in the FTR

❖ **Liability**

➤ No reimbursement for “any” transportation cost for which an traveler improperly use of foreign flag carrier service



❖ Open Skies Agreement

- U.S. has negotiated Open Skies Agreements with over 100 countries
- U.S and foreign country/union - gives Community airlines the right to transport passengers on scheduled / charter flights funded by the U.S.
- “U.S. Government Procured Transportation” – Article / Annex
- Current agreements: U.S. & European Union / U.S. & Switzerland / U.S. & Australia / U.S. & Japan
- Does not apply to transportation obtained or funded by the Secretary of Defense / the Secretary of a military department



❖ Open Skies Agreement (Australian/Switzerland/Japan)

- (a) between any point in the United States and any point in (Australia, Switzerland, Japan) except - with respect to passengers only - between points for which there is a city-pair contract fare in effect, or
- (b) between any two points outside the United States

❖ Open Skies Agreement (European Union – 29 countries)

- (a) between any point in the United States and any point outside the United States to the extent such transportation is authorized under subparagraph 1(c) of Article 3, except with respect to passengers who are eligible to travel on city-pair contract fares between points for which there is a city-pair contract fare in effect; or
- (b) between any two points outside the United States



❖ **Open Skies Agreement (Australian/Switzerland/Japan)**

- Contractors and grantees are not eligible to use City-Pair contract is irrelevant under these Open Skies
- U.S. government funds - Transportation is between points for which there is a city-pair contract fare in effect - still required to use U.S. flag air carrier service – unless other FTR exceptions are authorized
- The “countries” are not the issue, but rather the travelers “points” -- origin and destination



□ Example 1 – (U.S. & Switzerland)

- ❖ Authorized travel from Chicago, Illinois to Geneva, Switzerland
- ❖ No city-pair contract from origin to destination
- ❖ City-pair from Chicago, Illinois to Washington, DC & Washington, DC to Geneva, Switzerland – are irrelevant
- ❖ May fly U.S. Flag carrier or Switzerland flag carrier
- ❖ Exceptions – Foreign flag carrier IAW FTR



□ Example 2 – (U.S. & Switzerland)

- ❖ Authorized travel from Boston, MA. to Zurich, Switzerland
- ❖ City-pair contract from origin to destination
- ❖ Federal Employee must use City-pair contract U.S. Flag carrier – exceptions
- ❖ Contractor/Grantees must fly U.S. Flag carrier
- ❖ Exceptions – Foreign flag carrier IAW FTR



□ Example 3 – (U.S. & Australia)

- ❖ Authorized travel from Boston, MA to Sydney, Australia
- ❖ No city-pair contract from origin to destination
- ❖ City-pair from Boston, MA to Los Angeles, CA & Los Angeles, CA to Sydney, Australia – are irrelevant
- ❖ May fly U.S. Flag carrier or Australia flag carrier
- ❖ Exceptions – Foreign flag carrier IAW FTR



□ Example 4 – (U.S. & Australia)

- ❖ Authorized travel from Washington, DC. to Sydney, Australia
- ❖ City-pair contract from origin to destination
- ❖ Federal Employee must use City-pair contract U.S. Flag carrier – exceptions
- ❖ Contractor/Grantees must fly U.S. Flag carrier
- ❖ Exceptions – Foreign flag carrier IAW FTR



□ Example 5 – (U.S. & Japan)

- ❖ Authorized travel from Boston, MA to Osaka, Japan
- ❖ No city-pair contract from origin to destination
- ❖ City-pair from Boston, MA to Detroit, MI & Detroit, MI to Osaka, Japan – are irrelevant
- ❖ May fly U.S. Flag carrier or Japan flag carrier
- ❖ Exceptions – Foreign flag carrier IAW FTR



□ Example 6 – (U.S. & Japan)

- ❖ Authorized travel from Boston, MA to Tokyo, Japan
- ❖ City-pair contract from origin to destination
- ❖ Federal Employee must use City-pair contract U.S. Flag carrier – exceptions
- ❖ Contractor/Grantees must fly U.S. Flag carrier
- ❖ Exceptions – Foreign flag carrier IAW FTR



❖ **Open Skies Agreement (EU) – 29 countries**

- April 30, 2007 (Agreement), June 24, 2010 / June 21, 2011 (Amended)
- The “countries” are not the issue, but rather the travelers “points” -- origin and destination
- Travelers who are NOT eligible to use City Pair contract (Contractors / Grantees), are authorized to use EU Flag carriers under the EU Agreement
- Travelers who ARE eligible to use City Pair contract (U.S. Government employees), are authorized to use EU Flag carriers under the EU Agreement for which there is NOT a City Pair Contract fare in effect



❖ Open Skies Agreement (EU) – 29 countries

APRIL 2007:

AUSTRIA,
BELGIUM,
BULGARIA,
CYPRUS,
CZECH REPUBLIC,
DENMARK,
ESTONIA,
FINLAND,
FRANCE,
GERMANY,
GREECE
HUNGARY,

IRELAND,
ITALY
LATVIA,
LITHUANIA,
LUXEMBOURG,
MALTA,
NETHERLANDS,
POLAND,
PORTUGAL
ROMANIA,
SLOVAKIA
SLOVENIA,
SPAIN,
SWEDEN,

THE UNITED KINGDOM
OF GREAT BRITAIN AND
NORTHERN IRELAND

JUNE 2011:

ICELAND
NORWAY



❖ Open Skies Agreement (European Union – 29 countries)

- (a) between any point in the United States and any point outside the United States to the extent such transportation is authorized under subparagraph 1(c) of Article 3, except with respect to passengers who are eligible to travel on city-pair contract fares between points for which there is a city-pair contract fare in effect; or
- (b) between any two points outside the United States



❖ **subparagraph 1(c) of Article 3**

❖ (c) the right to perform international air transportation between points on the following routes :

- (i) for airlines of the United States (hereinafter "U .S . airlines"), **from points behind the United States via the United States and intermediate points to any point or points in any Member State or States and beyond; and for all-cargo service, between any Member State and any point or points (including in any other Member States) ;**
- (ii) for airlines of the European Community and its Member States (hereinafter "Community airlines"), from points behind the Member States via the Member States and intermediate points to any point or points in the United States and beyond ; for all-cargo service, between the United States and any point or points ; and, for combination services, between any point or points in the United States and any point or points in any member of the European Common Aviation Area (hereinafter the "ECAA") as of the date of signature of this Agreement;



❖ Examples (U.S. & EU)

➤ A point in the European Union to a point in the U.S.

Example: Frankfurt to New York

➤ A point in the U.S. to a point in the European Union

Example: New York to Paris

➤ A point in the European Union to a point in the U.S. to a further point in a foreign country

Example: Dublin to New York to Vancouver



❖ Examples (U.S. & EU) (cont)

➤ A point in a foreign country to a point in the U.S. to a further point in the European Union

Example: Mexico City to New York to Madrid

➤ A point in the U.S. to a point in a foreign country to a further point in the European Union

Example: Cleveland to Montreal to Barcelona



❖ Examples (U.S. & EU) (cont)

- A point in the European Union to a point in a foreign country to a further point in the U.S.

Example: Vienna to Toronto to Denver

- A point in a foreign country to a point in the European Union to a further point in the U.S.

Example: Istanbul to Amsterdam to Memphis

- A point in the U.S. to a point in the European Union to a further point in a foreign country

Example: Orlando to London to Moscow



❖ Type of Classes of Accommodations

- Coach-class - The basic class of accommodation by airlines that is normally the lowest fare offered regardless of airline terminology used
- Other-than-coach-class - Any class of accommodations above coach-class, e.g., first-class or business-class
- For official business travel, both domestic and international, you must use coach-class accommodations, except as provided under FTR



❖ Two Classes of Accommodations Available

- Two distinctly different seating types (such as girth / pitch)
 - Front cabin is termed / fare-coded as business-class or higher - is deemed to be other-than-coach-class
- Cabins with one type of seating (girth / pitch are the same)
 - Front seats are fare coded as full-fare economy class
 - Only restricted economy fares are available in the back of the aircraft
 - Entire aircraft is to be classified as coach-class seating



❖ **Coach-class Seating Upgrade Programs**

- Airline Upgrade / Preferred seat choices - “Coach Elite,” “Coach Plus,” “Preferred Coach” or some other identifier
- Fee for a more desirable seat choice within the coach-class
- Annual fee, airport kiosk/gate or as a frequent flier perk
- Not considered a new/higher class (still in the coach cabin)
- Generally a traveler’s personal choice/expense
- Internal agency policy - Agency travel authorization approving official may authorize/reimburse



❖ Other-than-coach-class (First-class)

- No coach-class accommodations are reasonably available (within 24 hours of the proposed departure / arrival times)
- Necessary to accommodate a medical disability or other special need
- When exceptional security circumstances require other than coach-class airline accommodations
- Required because of agency mission, consistent with agency's internal procedures



❖ **Other-than-coach-class (Business-class)**

- Necessary to accommodate a medical disability or other special need
- When exceptional security circumstances require other than coach-class airline accommodations
- Coach-class accommodations on an authorized/approved foreign air carrier do not provide adequate sanitation or health standards



❖ **Other-than-coach-class (Business-class) (cont)**

- Regularly scheduled flights between origin/destination points (including connecting points) provide only other than coach-class accommodations - certification
- Transportation cost paid in full through agency acceptance of payment from non-Federal source
- Origin and/or destination are OCONUS, and the scheduled flight time, including stopovers and change of planes, is in excess of 14 hours



❖ Other-than-coach-class (Business-class) (cont)

- Results in an overall cost savings to the Government by avoiding additional subsistence costs, overtime, or lost productive time while awaiting coach-class accommodations
- No space is available in coach-class accommodations in time to accomplish the mission which is urgent and cannot be postponed
- Required because of agency mission, consistent with your agency's internal procedures



❖ **Authorization for a rest stop enroute to origin/destination**

- Agency may authorize a rest period not in excess of 24 hours at either an intermediate point or at destination if:
 - Either origin or destination point is OCONUS;
 - Scheduled flight time, including stopovers, exceeds 14 hours;
 - Travel is by a direct or usually traveled route; and
 - Travel is by coach-class service
- Rest stop applicable per diem rate is the rate for the rest stop location



❖ **Web site**

- **FTR - www.gsa.gov/federaltravelregulation**
- **City-pair awards -
<http://www.gsa.gov/citypairsearch>**

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