COMPLYING WITH FLY AMERICA

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Fly America Act - History

- 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 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- The Act was repealed by P.L. 103-272 (1994), which promulgated 49 U.S.C. §40118, which is the present day version of the Fly America Act as amended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 Carriers

- **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), but does not include a foreign air carrier operating under a permit

- **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
Code Sharing

- A process by which a ticket may be issued by one airline but flown by another, requires that the ticketing be by the U.S. Carrier. The “carrier” is defined by the airline designator noted on the ticket. Examples:
  - American flight 4332, shown as AA 4332 on the ticket, flown by British Airways, is considered a U.S. Carrier.
  - Japan Airways 324, shown on the ticket as JL 324, flown by American Airlines, is not considered a U.S. Carrier.
  - American flight 467, shown on the ticket as AA 467, that happens to be the same plane as JL 324 above, is a U.S. Carrier.

- Frequent flyer agreements such as Star Alliance do not infer U.S. Carrier status on their members absent the utilization of a Code Shared flight with a U.S. designator.
Fly America Act - Exceptions

- Exceptions (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
  - 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 – Cont

- 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

- Attach supporting documentation to the Waiver Checklist showing available carriers and times.
Exceptions – Cont.

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 two (2) or more; or
- Extend travel time by at least six (6) hours or more; or
- Require a connecting time of four (4) hours or more at an overseas interchange point

✓ You must check at least one of the statements above to qualify for a waiver of the Fly America restrictions in this section, and attach supporting documentation listing the available carriers and times.
Exceptions – Cont.

- 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
Case Studies
Changes to University Travel Policy 3-7
For additional information:

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