

Federal Fly America Act Procedures

The Fly America Act (41 CFR 301-10.131 through 301-10.143) is a federal regulation that states that any foreign air travel that is financed by federal funds must be booked on U.S. Flag Air Carriers, regardless of cost or convenience. This regulation must be followed by all Rowan University faculty, personnel, students, trainees, consultants and collaborators who are reimbursed for air travel with federal prime or federal pass through funds.

It is the Principal Investigator's (PI) responsibility to ensure that all air travel charged to a federal primed or federal pass through award are in compliance with this regulation. PI's must contact the Office of Sponsored Programs to determine if any exceptions noted below applies to their international air travel.

Rowan University requires travelers who will be reimbursed from federal grants or contracts to use U.S. flag air carrier service, consistent with the Fly America Act.

A U.S. flag air carrier must be used for all air travel funded by the U.S. government, except when one of the following exceptions apply:

1. Use of a foreign air carrier is determined to be a matter of necessity in accordance with 301-10.138. Circumstances where a foreign air carrier service is deemed a matter of necessity:
 - a. Foreign air carrier service is deemed a necessity when a U.S. flag air carrier service is available, but:
 - i. Cannot provide the air transportation needed
 - b. The federal sponsor should be notified, if possible, when a necessity exception includes, but is not limited to, the following:
 - i. Persons that require immediate medical treatment or life threatening medical reasons, the use of a foreign air carrier service to reduce the number of connections and possible delays can be used
 - ii. Persons safety is at risk, when a U.S. flag air carrier has received threats and the U.S. flag air carrier has shut down operations and cancelled flights. The Federal Aviation Administration and the Department of State must have issued a Travel Advisory Notice in order to qualify as a necessity. The FAA and Department of State publish Travel Advisory Notices and they are available for review on the Department of State website.
 - iii. When the authorized class service (lowest economy fare) cannot be purchased on a U.S. flag air carrier, and a seat is available in your authorized class of service on a foreign air carrier
2. The transportation is provided under a bilateral or multilateral air transportation agreement to which the U.S. and the government of a foreign country are parties to and which the Department of Transportation has determined meets the requirements of the Fly America Act. More information about this exception can be found below in the Open Skies section.
3. No U.S. flag air carrier provides service on a particular leg of the route, in which the foreign air carrier service may be used, but only to or from the nearest interchange point on a usually traveled route to connect with a U.S. flag air carrier service
4. U.S. flag air carrier involuntarily reroutes your travel on a foreign air carrier
5. Service on a foreign air carrier would be 3 hours or less **and** the use of the U.S flag air carrier would at least double your enroute travel time
6. When the costs of transportation are reimbursed in full by a third party, such as a foreign government or an international agency

Other exceptions to the Fly America Act are detailed in parts 301-10.136 and 301-10.137 of the regulation. These exceptions include the following:

1. Travel between the U.S. and another country
 - a. If a U.S. flag carrier **offers nonstop or direct service** (no aircraft exchange) between your origin and your destination, then you must use a U.S. carrier service, unless such use would result in the following:
 - i. Extend the travel time, including delay at origin, by 24 hours or more
 - b. If a U.S. flag carrier **does not offer nonstop or direct service** (no aircraft change) between your origin and your destination, you must use a U.S. flag carrier on every portion of the route where it provides service, unless, when compared to using a foreign air carrier, such use would result in the following:
 - i. Increase the number of aircraft changes you must make outside of the U.S. by 2 or more
 - ii. Extend your travel time by at least 6 hours or more
 - iii. Require a connecting time of 4 hours or more at an overseas interchange point
2. Travel solely outside the U.S. and a U.S. flag air carrier provides service between my origin and my destination must always use a U.S. flag air carrier unless when compared to a foreign air carrier, such use would:
 - i. Increase the number of aircraft changes you must make outside of the U.S. by 2 or more
 - ii. Extend your travel time by at least 6 hours or more]
 - iii. Require a connecting time of 4 hours or more at an overseas interchange point

Note that U.S. carriers must be used even if foreign carriers offer tickets at a lower price, offer preferred routing, and/or are more convenient. Additionally, exceptions should be documented via the Federal Fly America Act Exemption Form.

Exceptions to Fly America must meet one of the exception criteria and be justified and documented to be allowable on a federal award. These exceptions require documentation and written approval by a designated school official via the Federal Fly America Act Waiver/Exemption Form. Written approval and justification to use a non-U.S. air flag carrier must be documented and included in the sponsored project support documentation file.

Open Skies

An additional exception to Fly America occurs when an Open Skies Agreement is in place between the United States (U.S.) government and the government of a foreign country. It should be noted that there are limitations to the use of non-US carriers under an Open Skies agreement, notably that current Open Skies agreements do not apply to Department of Defense-supported activities.

Code Share

Please note that code-sharing agreements with foreign air carriers, whereby American carriers purchase or have the right to sell a block of tickets on a foreign carrier, comply with the Fly America Act Regulations. The ticket, or documentation for an electronic ticket, must identify the U.S. carrier's designator code and flight number. However, some funding sources may not recognize code-sharing as being compliant with Fly America Act regulations. When the specific funding source policy is more restrictive than the Fly America Act, the more restrictive policy applies.

If you have questions about whether your federally funded international travel is compliant, please contact Rowan's Office of Sponsored Programs before you book. Unallowable charges cannot be reimbursed to the traveling individual.