

Fly America Act

The Fly America Act (FAA) is a federal expenditure rule designed to assure that federal funds are being expended to the benefit of American flagged carriers. It is applicable to all federal grantees and contractors. It does not apply to projects funded entirely with non-federal funds.

Applicability

The FAA requirements prescribe that US-flag air carrier service be used to transport personnel and property when the costs are charged directly to a federally sponsored project. This includes air transportation to, from, between, and within a country other than the US when US-flag air carriers are available even if:

- comparable or a different kind of service can be provided at less cost by a foreign-flag air carrier.
- foreign-flag air carrier service is preferred by, or is more convenient for the traveler.
- service by a foreign-flag air carrier can be paid for in excess foreign currency.

The FAA requirements must be flowed down to all subrecipients.

Use of US-Flag Air Carriers

These requirements apply to the use of a US-flag air carrier, unless the journey results in the first or last leg of travel from/to the US being performed by a foreign-flag air carrier:

- A US-flag air carrier shall be used to the destination, or in the absence of direct or through service, to the farthest interchange point on a usually traveled route.
- If a US-flag air carrier does not serve an origin or interchange point, a foreign-flag air carrier shall be used only to the nearest interchange point on a usually traveled route to connect with a US-flag air carrier.
- If a US-flag air carrier involuntarily reroutes the travel via a foreign-flag air carrier, the foreign-flag air carrier may be used notwithstanding the availability of alternative US-flag air carrier service.

Use of Foreign-Flag Air Carriers

These requirements address when the use of a foreign-flag air carrier is allowable.

To and From the US

The airport abroad is the traveler's original or destination airport and the use of US-flag air carrier service would extend the time in travel status by at least 24 hours more than travel by a foreign-flag air carrier.

The airport abroad is an interchange point, and the use of US-flag air carrier service would require the traveler to wait 4 hours or more to make connections at that point, or would extend the time in a travel status by at least 6 hours more than travel by a foreign-flag air carrier.

Between Points Outside the US

Travel by a foreign-flag air carrier would eliminate two or more aircraft changes en route.

Travel by a US-flag air carrier would extend the time in a travel status by at least 6 hours more than travel by a foreign-flag air carrier.

The travel is not part of a trip to/from the US, and use of a US-flag air carrier would extend the time in travel status by at least 6 hours more than travel by a foreign-flag air carrier.

Short Distance

For all short distance travel, regardless of origin and destination, use of a foreign-flag air carrier is permissible if elapsed travel time is 3 hours or less and service by a US-flag air carrier would double the time.

Foreign-Flag vs. US-Flag Air Carriers

It is often difficult to determine just exactly what is a foreign-flag air carrier versus a US flag-air carrier because of various global airline alliances. The federal government has issued guidelines to help in that determination. The US Comptroller General issued a decision on September 25, 1991:

Travel under a ticket issued by a US-flag air carrier which leases space on a foreign-flag air carrier under a code-share arrangement is allowable. The ticket (or documentation for an electronic ticket) must identify the US-flag air carrier's designator code and flight number."

"The requirement that the ticket be issued from U.S.-flag carrier ticket stock is no longer applicable."

Sanctions

Institutions that do not comply with the FAA requirements can be subject to disallowance of costs. An automatic audit disallowance will result if an inappropriate air carrier is used, and the expense is charged to a federal account.

References

FAR Regulation: FAR Subpart 47.4 – Air Transportation by U.S.-Flag Carriers
FAR 47.403 – Guidelines for Implementation of the Fly America Act
FAR 52.247-63 – Preference for U.S.-Flag Air Carrier