**Barnard Fly America Act and Open Skies Agreement Policies**

**B A R N A R D    C O L L E G E**

Fly America Act and Open Skies Agreement

Rules and Regulations for Federal Grants

**Fly America Act**

If a Barnard College faculty member or staff member is utilizing funding provided by the federal government for domestic travel, s/he must use a US flag carrier (an airline owned by an American company) regardless of cost or general convenience to the traveler.

When scheduling international travel using funding from a federal grant, faculty and staff members must ensure that all flights use a US flag carrier or a foreign airline that **code shares** with a U.S. flag carrier. (*There are some exemptions to this for certain circumstances.*[*See below.\**](https://web.archive.org/web/20190227042129/https%3A/barnard.edu/grants/Fly_America_Open_Skies#1*))

**Code sharing** happens when two or more airlines “code” the same flight as if it was their own. U.S. airlines can sell seats on the plane of a foreign air carrier and, in such instances, the seat is considered the same as one on a plane operated by a U.S. flag carrier. You can ensure that compliance with the Fly America Act is satisfied by checking that the U.S. flag carrier’s designator code is located next to the flight numbers on the airline ticket, boarding pass, or on the documentation for an electronic ticket (a receipt, for instance).

* **Example of Compliance**: United Airlines has a code share agreement with Lufthansa, to airports in Germany. If the boarding pass or other flight documents including the flight number identifies the flight as UA## or United ####, Fly America Act compliance would be satisfied even if Lufthansa operates the flight and owns the airplane. An example of a compliant e-ticket is available [here](https://web.archive.org/web/20190227042129/http%3A/www.uos.harvard.edu/travel/documents/delta_fly_america_act.pdf).
* **Example of Non-Compliance**: Though United Airlines and Lufthansa have a code share, if a flight number is LH## or Lufthansa ####, this does not comply with the Fly America Act.

If you have questions about this process, please check with [Institutional Funding](https://web.archive.org/web/20190227042129/http%3A/barnard.edu/grants/about-us).

**Open Skies Agreement**

The [“Open Skies” Air Transport Agreement](https://web.archive.org/web/20190227042129/http%3A/www.gsa.gov/graphics/ogp/FTRBulletin11-02USEUOpenSkies.PDF), published by the General Services Administration on October 6, 2010, explains the multilateral agreement that establishes additional exemptions to the Fly America Act. The Open Skies Agreement allows qualifying travelers using federal funds to travel on both European Union airlines as well as US Flag Carriers.[\*\*](https://web.archive.org/web/20190227042129/https%3A/barnard.edu/grants/Fly_America_Open_Skies#2**) The Open Skies Agreement includes [all member countries](https://web.archive.org/web/20190227042129/http%3A/europa.eu/about-eu/countries/index_en.htm) of the European Union as well as [Iceland and Norway](https://web.archive.org/web/20190227042129/http%3A/www.state.gov/e/eb/rls/othr/ata/i/ic/170684.htm). The US also has similar Open Skies agreements with Australia, Switzerland, and Japan. For travel in:

* **European Union**
	+ When a faculty member’s destination is serviced by an EU airline, they may use federal funding for a flight on either a US carrier or [an EU carrier](https://web.archive.org/web/20190227042129/http%3A/www.travel.harvard.edu/travel/documents/European_union_carriers.pdf) as long as the flight lands in an EU country.
* **Australia**
	+ Faculty may use funding from a federal grant for a flight on an Australian airline only if a point of origin/destination is either the US or Australia and there is no city-pair contract[\*\*\*](https://web.archive.org/web/20190227042129/https%3A/barnard.edu/grants/Fly_America_Open_Skies#3***) flight between the two points.
* **Switzerland**
	+ Faculty may use funding from a federal grant for a flight on a Swiss airline only if a point of origin/destination is either the US or Switzerland and there is no city-pair contract[\*\*\*](https://web.archive.org/web/20190227042129/https%3A/barnard.edu/grants/Fly_America_Open_Skies#3***) flight between the two points.
* **Japan**
	+ Faculty may use funding from a federal grant for a flight on a Japanese airline only if a point of origin/destination is either the US or Japan and there is no city-pair contract[\*\*\*](https://web.archive.org/web/20190227042129/https%3A/barnard.edu/grants/Fly_America_Open_Skies#3***) flight between the two points.

\* The exemptions to the Fly America Act are listed below and available [on the GSA website](https://web.archive.org/web/20190227042129/http%3A/www.gsa.gov/portal/ext/public/site/FTR/file/Chapter301p010.html/category/21868/#wp1088924).

* **When can faculty travel using non-U.S. flag air carrier service? (§301-10.135)**
	+ The transportation is provided under a bilateral or multilateral air transportation agreement to which the United States Government and the government of a foreign country are parties, and which the Department of Transportation has determined meets the requirements of the Fly America Act. (*See Open Skies Agreement information below*)
	+ No U.S. flag air carrier provides service on a particular leg of the route, in which case foreign air carrier service may be used, but only to or from the nearest interchange point on a usually traveled route to connect with U.S. flag air carrier service.
	+ A U.S. flag air carrier involuntarily reroutes your travel on a foreign air carrier.
	+ Service on a foreign air carrier would be three hours or less, and use of the U.S. flag air carrier would at least double your en route travel time.
	+ When the costs of transportation are reimbursed in full by a third party, such as a foreign government, international agency, or other organization.
* **What exceptions to the Fly America Act requirements apply when I travel between the United States and another country? (§301-10.136)**
	+ **​**If a U.S. flag air carrier offers nonstop or direct service (no aircraft change) from your origin to your destination, you must use the U.S. flag air carrier service unless such use would extend your travel time, including delay at origin, by 24 hours or more.
	+ If a U.S. flag air carrier does not offer nonstop or direct service (no aircraft change) between your origin and your destination, you 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 you must make outside of the U.S. by 2 or more; or
	+ Extend your travel time by at least 6 hours or more; or
	+ Require a connecting time of 4 hours or more at an overseas interchange point.
* **What exceptions to the Fly America Act requirements apply when I travel solely outside the United States, and a U.S. flag air carrier provides service between my origin and my destination?** **(§301-10.137)**
	+ You must always use a U.S. flag carrier for such travel, unless, when compared to using a foreign air carrier, such use would:
	+ Increase the number of aircraft changes you must make en route by 2 or more; or
	+ Extend your travel time by 6 hours or more; or
	+ Require a connecting time of 4 hours or more at an overseas interchange point.
* **In what circumstances is foreign air carrier service deemed a matter of necessity? (§301-10.138)**
	+ Foreign air carrier service is deemed a necessity when service by a U.S. flag air carrier is available, but
		- Cannot provide the air transportation needed; or
		- Will not accomplish the agency’s mission.
	+ Necessity includes, but is not limited to, the following circumstances:
		- When the agency determines that use of a foreign air carrier is necessary for medical reasons, including use of foreign air carrier service to reduce the number of connections and possible delays in the transportation of persons in need of medical treatment; or
		- When use of a foreign air carrier is required to avoid an unreasonable risk to your safety and is approved by your agency (e.g., terrorist threats). Written approval of the use of foreign air carrier service based on an unreasonable risk to your safety must be approved by your agency on a case by case basis. An agency determination and approval of use of a foreign air carrier based on a threat against a U.S. flag air carrier must be supported by a travel advisory notice issued by the Federal Aviation Administration and the Department of State. An agency determination and approval of use of a foreign air carrier based on a threat against Government employees or other travelers must be supported by evidence of the threat(s) that form the basis of the determination and approval; or
		- When you cannot purchase a ticket in your authorized class of service on a U.S. flag air carrier, and a seat is available in your authorized class of service on a foreign air carrier.
* **May I travel by a foreign air carrier if the cost of my ticket is less than traveling by a U.S. flag air carrier? (§301-10.139)**
	+ **​**No. Foreign air carrier service may not be used solely based on the cost of your ticket.
* **May I use a foreign air carrier if the service is preferred by or more convenient for my agency or me? (§301-10.140)**
	+ **​**No. You must use U.S. flag air carrier service, unless you meet one of the exceptions listed above.
* **Must I provide any special certification or documents if I use a foreign air carrier? (§301-10.141)**
	+ **​**Yes, you must provide a certification, as required in [§301-10.142](https://web.archive.org/web/20190227042129/http%3A/www.gsa.gov/portal/ext/public/site/FTR/file/Chapter301p010.html/category/21868/#wp1088962) and any other documents required by your funding agency. Your agency cannot pay your foreign air carrier fare if you do not provide the required certification.
	+ What must the certification include?
		- Your name
		- The dates that you traveled
		- The origin and the destination of your travel
		- A detailed itinerary of your travel, name of the air carrier and flight number for each leg of the trip
		- A statement explaining why you met one of the exceptions above or a copy of your agency’s written approval that foreign air carrier service was deemed a matter of necessity.
* **If a faculty member is using a non‐U.S. Carrier for travel using funding through a federal grant, it is helpful that faculty or staff keep records which support reasons for the specific exemption claimed. This includes:**
	+ **​**Travel site data indicating the absence of US‐based carriers
	+ The specific amount of time that use of a U.S. Carrier would require
	+ Any safety information such as State Department travel advisories that recommend that U.S. Carriers not be used
	+ Documentation, from a licensed practitioner, of any medical condition that requires use of a foreign carrier, and for what reason (e.g. shorter elapsed time, wider seats, etc.).
	+ [Screen print of GSA site](https://web.archive.org/web/20190227042129/http%3A/www.gsa.gov/portal/content/103885) showing absence of a City Pair if the Open Skies exemption is claimed.

\*\* Faculty using Department of Defense (DOD) funding for travel **are not permitted** to use Open Sky Agreements for exemptions in their travel. Unless faculty qualify for exemptions noted in [FTR 301-10.135, sections (a), (d), (e), (f), and (g)](https://web.archive.org/web/20190227042129/http%3A/www.gsa.gov/portal/ext/public/site/FTR/file/Chapter301p010.html/category/21868/#wp1088913), they must use an American carrier with their DOD funding.

\*\*\* Information on GSA City-Pairs may be found [here](https://web.archive.org/web/20190227042129/http%3A/www.gsa.gov/portal/category/27228?utm_source=FAS&utm_medium=print-radio&utm_term=citypair&utm_campaign=shortcuts). Barnard College faculty and staff using federal grant funding are unable to obtain the fare offered through this GSA program. According to the GSA, ineligibility to use the benefits of the City‐Pair Program does not impact access to the Open Skies Agreement as discussed above. Essentially, if transportation is between two points of travel for which there is a city‐pair contract fare in effect on the GSA website, Barnard College faculty and staff traveling using federal grant funding are still required to use U.S. flag air carrier service in accordance with the Fly America Act. Always check if there is a City-Pair agreement before purchasing tickets. The list of City-Pair Programs is available [here](https://web.archive.org/web/20190227042129/http%3A/www.gsa.gov/portal/content/103885).

If you have additional questions, please contact [Institutional Funding](https://web.archive.org/web/20190227042129/http%3A/barnard.edu/grants/about-us).