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TAKE PRIDE IN AMERICA

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FINANCIAL MANAGEMENT MEMORANDUM 2009-061 (Vol. X.A)

To: Bureau Chief Finance Officers
Bureau Assistant Directors for Administration
Director, National Business Center

From: Daniel L. Fletcher,
Director, Office of Financial Management

Subject: Use of United States Flag Air Carriers

Attached is the revised section of 347 DM DOI FTR Implementing Instructions on the Use of United States Flag Air Carriers. This revision incorporates the requirement for a trip-by-trip travel authorization for international travel and requires a copy of the travel authorization to be provided to the TMC prior to release of the ticket.

If you have any questions regarding this information or if you require additional information, please contact Robert Smith (Robert_Smith @ios.doi.gov) on 202-208-5684.

Attachments

Replaces: FAM 2002-017

41 CFR 301

Use of United States Flag Air Carriers

SECTION	QUESTION	ANSWER
§ 301-10.131	**What does United States mean?**	For purposes of the use of United States flag air carriers, United States means the 50 states, the District of Columbia, and the territories and possessions of the United States (49 U.S.C. 40102).
§ 301-10.132	**Who is required to use a U.S. flag air carrier?**	Anyone whose air travel is financed by U.S. Government funds, except as provided in Sec. 301-10.135, Sec. 301-10.136, and Sec. 301- 10.137.
§ 301-10.133	**What is a U.S. flag air carrier?**	An air carrier which holds a certificate under 49 U.S.C. 41102 but does not include a foreign air carrier operating under a permit.
§ 301-10.134	**What is U.S. flag air carrier service?**	U.S. flag air carrier service is service provided on an air carrier which holds a certificate under 49 U.S.C. 41102 and which service is authorized either by the carrier's certificate or by exemption or regulation. U.S. flag air carrier service also includes service provided under a code share agreement with a foreign air carrier in accordance with Title 14, Code of Federal Regulations when the ticket, or documentation for an electronic ticket, identifies the U.S. flag air carrier's designator code and flight number.
§ 301-10.135	**When must I travel using U.S. flag air carrier service?**	You are required by 49 U.S.C. 40118, commonly referred to as the ``Fly America Act," to use U.S. flag air carrier service for all air travel funded by the U.S. Government, except as provided in Sec. 301-10.136 and Sec. 301-10.137 or when one of the following exceptions applies: (a) Use of a foreign air carrier is determined to be a matter of necessity in accordance with Sec. 301-10.138; or

§ 301-10.135 (Continued)	**When must I travel using U.S. flag air carrier service? (Continued)**	(b) 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; or (c) You are an officer or employee of the Department of State, United States Information Agency, United States International Development Cooperation Agency, or the Arms Control Disarmament Agency, and your travel is paid with funds appropriated to one of these agencies, and your travel is between two places outside the United States; or (d) 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; or (e) A U.S. flag air carrier involuntarily reroutes your travel on a foreign air carrier; or (f) 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; or (g) When the costs of transportation are reimbursed in full by a third party, such as a foreign government, international agency, or other organization.
§ 301-10.136	**What exceptions to the Fly America Act requirements apply when I travel between the United States and another country?**	The exceptions are: (a) 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. (b) 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: (1) Increase the number of aircraft changes you must make outside of the U.S. by 2 or more; or (2) Extend your travel time by at least 6 hours or more; or (3) Require a connecting time of 4 hours or more at an overseas interchange point.

§ 301-10.137	**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?**	You must always use a U.S. flag carrier for such travel, unless, when compared to using a foreign air carrier, such use would: (a) Increase the number of aircraft changes you must make en route by 2 or more; or (b) Extend your travel time by 6 hours or more; or (c) Require a connecting time of 4 hours or more at an overseas interchange point.
§ 301-10.138	**In what circumstances is foreign air carrier service deemed a matter of necessity?**	(a) Foreign air carrier service is deemed a necessity when service by a U.S. flag air carrier is available, but (1) Cannot provide the air transportation needed; or (2) Will not accomplish the agency's mission. (b) Necessity includes, but is not limited to, the following circumstances: (1) 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 (2) 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 (3) When you can not 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.

§ 301-10.139	**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?**	No. Foreign air carrier service may not be used solely based on the cost of your ticket.
§ 301-10.140	**May I use a foreign air carrier if the service is preferred by or more convenient for my agency or me?**	No. You must use U.S. flag air carrier service, unless you meet one of the exceptions in Sec. 301-10.135, Sec. 301-10.136, or Sec. 301-10.137 or unless foreign air carrier service is deemed a matter of necessity under Sec. 301-10.138.
§ 301-10.141	**Must I provide any special certification or documents if I use a foreign air carrier?**	Yes, you must provide a certification, as required in section 301-10.143 and any other documents required by your agency. Your agency cannot pay your foreign air carrier if you do not provide the required certification.
§ 301-10.142	**What must the certification include?**	The certification must include: (a) Your name; (b) The dates that you traveled; (c) The origin and the destination of your travel; (d) A detailed itinerary of your travel, name of the air carrier and flight number for each leg of the trip; and, (e) A statement explaining why you met one of the exceptions in Sec. 301-10.135, Sec. 301-10.136, or Sec. 301-10.137 or a copy of your agency's written approval that foreign air carrier service was deemed a matter of necessity in accordance with Sec. 301-10.138.
§ 301-10.143	**What is my liability if I improperly use a foreign air carrier?**	You will not be reimbursed for any Transportation cost for which you Improperly use foreign air carrier service. If you are authorized by your agency to use U.S. flag air carrier service for your entire trip, and you improperly use a foreign air carrier for any part of or the entire trip (i.e., when not permitted under this regulation), your transportation cost on the foreign air carrier will not be payable by your agency. If your agency authorizes you to use U.S. Flag air carrier service for part of your trip and foreign air carrier service for another part of your trip, and you improperly use a foreign air carrier (i.e., when neither authorized to do so nor otherwise permitted under this regulation), your

§ 301-10.143 (Continued)	**What is my liability if I improperly use a foreign air carrier? (Continued)**	agency will pay the transportation cost on the foreign air carrier for only the portion(s) of the trip for which you were authorized to use foreign air carrier service. The agency must establish internal procedures for denying reimbursement to travelers when use of a foreign air carrier was neither authorized nor otherwise permitted under this regulation

347 DM 301-10 DOI FTR Implementing Instructions

Use of United States Flag Air Carriers

SECTION	QUESTION	ANSWER
301-10.135	**What is the difference between a code share and a bilateral or multilateral transportation agreement?**	A code share agreement is when two or more airlines providing service over the same route agree to accept the tickets of the other airline and share the revenue with the other airline(s) which is (are) a party to the agreement. Under a code share agreement, the flight number will be a US flag carrier flight number and the ticket will always be issued in the name of the U. S. flag carrier. The equipment and crew may be foreign or domestic. A bilateral or multilateral transportation agreement is an agreement authorized and controlled by the Department of Transportation allowing a foreign air carrier to operate in the United States under its own name similar to a U.S. flag air carrier. Currently there are no bilateral or multilateral transportation agreements in effect.
301-10.136	**What affect does additional aircraft changes within the United States have on my ability to use a foreign flag air carrier?**	None. Exceptions to the use of a U.S flag carrier are based on aircraft changes <u>outside the United States</u>.
301-10.137	**Who can approve use of a foreign air carrier as a matter of necessity in accordance with 41 CFR 301-138?**	The Assistant Secretary – Policy, Management and Budget has reserved this approval authority at that level (See 205DM15 Travel and Transportation).
301-10.138	**If I meet one of the exceptions and complete a certificate required by Sec 301-10.141 and Sec 301-10.142, who must approve the certificate?**	You as the traveler must complete the certificate and obtain your travel approving official's signature indicating his/her concurrence.

301-10.139	**What is the disposition of the certificate once it has been signed by the travel approving official?**	A copy of the certificate will be provided to the TMC location where the reservations were made and a copy will be filed with the travel voucher covering the trip.
301-10.140	**Must I provide a copy of my travel authorization to the TMC to document my need for the travel itinerary chosen?**	Yes, you must provide the TMC with a copy of your trip-by-trip travel authorization for all foreign travel. The travel authorization must show your approved duty locations, rest stops, and places of approved leave.
301-10.141	**If I complete my certificate and do not have a trip-by trip travel authorization showing the details of my itinerary, will the TMC issue my ticket?**	No, the TMC will not issue a ticket for foreign travel until the travel is documented with a copy of your trip-by-trip travel authorization showing the necessity for the itinerary chosen.
301-10.142	**If my foreign travel is totally outside the United States does the use of U.S. flag air carrier rules still apply?**	Yes. However, if your foreign location is not served by a TMC you will not have to furnish a copy of your documentation to the TMC. Copies will still be requirec for the travel voucher.
301-10.143	**If my travel is wholly within one foreign country and there are no U.S. flag air carriers or code share air carriers operating in the area, what documentation must I provide?**	Your travel voucher should be supported by a signed statement showing that there are no U.S. flag or code share air carriers that can provide you service.