

Fly America Act

The **Fly America Act** refers to the provisions enacted by [Title 49 of the United States Code](#), Subtitle VII, Part A, subpart I, Chapter 401, 40118 – Government-Financed Air Transportation.

The Fly America Act is applicable to all travel funded by [United States federal government](#) funds and requires the use of "U.S. flag" airlines (not to be confused with [flag carriers](#)) with a few exceptions. These individuals include U.S. federal government employees, their [dependents](#), consultants, contractors, grantees, and others.

The Fly America Act is incorporated into the [Federal Acquisition Regulations](#) (FAR) at Subpart 47.4—Air Transportation by U.S.-Flag Carriers and is, therefore, applicable to all U.S. government contracts issued to U.S. and non-U.S. companies, except for commercial item contractors, which are exempt from the act under Part 12.503 of the FAR.

According to the [United States Department of State](#) (Transportation Dept, Aviation), the Fly America Act applies equally to non-U.S. nationals and non-U.S. companies or their representatives both within the U.S. and extraterritorially, regardless of enforcement difficulties or possible infringements of [international law](#) and personal liberty that this could represent.

The Fly America Act is generally regarded by non-U.S. interests as being anti-competitive and as unfairly favoring U.S. airlines and, particularly for non-U.S. contractors, can result in significant travel budget issues. However, it does offer U.S. airlines some recompense for the U.S. Government's [Civil Reserve Air Fleet](#) (CRAF) program and provides balance against some of the existing, largely obsolescent and, in many cases, inequitable bilateral U.S./non-U.S. Air Transport Agreements. This partly accounts for the U.S. State Department's reluctance to grant exception in accordance with 40 USC 40101 (e), International Aviation Policy or any other exemption provisions (see below). The U.S. is systematically replacing these ATAs by [Open Skies](#) agreements, which are considerably more liberal in their reciprocal arrangements. The most recently signed agreement is the [Open Skies Agreement](#) with the EU. A further treaty is being negotiated with [China](#).

The Fly America Act does not prohibit travel on carriers associated with nations that have a "bilateral or multilateral agreement" with the United States; however, travelers must complete a declaration that such an agreement exists. Because rapidly expanding [Open Skies](#) agreements are considered qualifying "bilateral or multilateral agreement[s]", the provisions of the Fly America Act are less restrictive than in the past. A full list of [Open Skies](#) partners is available from the [U.S. State Department](#).^[1]

le: Australia, Switzerland

Exceptions to the Fly America Act:

- No U.S. Carrier available
- Travel delay of 6 or more hours
- 2 or more aircraft changes on the route (foreign soil only)
- Medical need