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## Fly America Act and Open Skies Policy

### Inquiry 1:

An international research conference funded by the NSF is going to be held in Bulgaria. Is Turkish Air or British Air an acceptable air carrier that can be charged to the NSF grant?

Is an Icelandic airline an acceptable carrier that can be charged to the NSF grant?

This is the article from the DOT website about Open Skies [U.S. Department of Transportation](#).

### **Response:**

All federally sponsored travel must comply with the Fly America Act by flying U.S. flag carrier airlines. Under an Open Sky Agreement exception, the airlines in question (Turkish, U.K., and Icelandic). Turkey and now the UK are not part of this agreement and would not be permitted to be charged to the grant; therefore, only the Icelandic airline would be allowed in this case.

For those originating in the U.S. and flying to the EU (i.e. Bulgaria) so long as their flight “touches down” in the U.S. and ends (“touches down”) in Bulgaria, they may fly through a Non-U.S./EU Country (e.g. UK/Canada) so long as they are on a U.S. or EU Airline. Travelers who are originating in the U.S. and landing in the EU (Bulgaria) should NOT book any flights with either a UK/Turkish airline.

The DOT website in the inquiry includes MALIAT agreements, which do not fall under the Fly America Act. The only non-EU Open Skies Agreements listed as part of the Fly America Act exceptions are Australia, Switzerland, and Japan (as well as Iceland and Norway as part of the EU agreement).

The United States currently has Open Skies Agreements in effect with:

- European Union (28 countries) (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, including Iceland and Norway)
- Australia
- Switzerland
- Japan

**Note:** As of January 1, 2021, The United Kingdom (U.K.) is no longer a member of the EU. Consequently, the Open Skies Agreement with the EU does not pertain to the U.K. Travelers must use a U.S. Flag Carrier to travel from the U.S. to the U.K. and not a U.K. airline (e.g., British Airways), unless they use a different Fly America Act exception. Travelers may continue to use an EU agreement for travel from the U.S. to the U.K. as long as the flight stops in the EU prior to arrival in the U.S. or the U.K. Source and additional information regarding the Open Skies Policy can be found here: [U.S. General Services Administration](#)

### Exceptions to the Fly America Act:

Appropriate documentation to substantiate exceptions to the Fly America Act must be maintained. Further details on exceptions to the Fly America Act can be found here: [NU-RES FAQs](#).

## Inquiry 2:

A PI will be attending a conference in India related to an NSF grant. After the conference, the PI will continue to stay in India but travel to Delhi for a holiday.

The PI has two flight path options:

The most direct flight path:

BOS -> EU Airport via US/EU Carrier (Fly America Act/Open Skies Policy) -> first stop in India (1 stop, ~20-23 hours of travel where they could fly either US/EU Airline).

The PI would prefer to fly:

**December 17<sup>th</sup>:**

US Airline: BOS -> JFK -> Delhi -> Indian Domestic Airline to Bangalore (2 stops, ~20-23 hours of travel where he could fly a US Airline further, but would end the journey with a non-US Carrier)

**December 21<sup>st</sup>:**

Bengaluru -> Indian Domestic Airline to Delhi

**January 6<sup>th</sup>:**

US Airline: Delhi -> JFK -> BOS.

Two questions here:

1. Is there a Fly America Exception that allows them to take the preferred route that requires them to take a non-US flight to their destination?
2. Is it reasonable for them to remain in India for an additional 2 weeks, in a separate city, and still allocate the return flight to the grant? (Especially if they can provide backup indicating that this was less expensive than a return flight to the US immediately after the conference).

**Response:**

Though the route through Delhi is less direct than flying through the EU en route to Bangalore, the route from the US to Delhi should be allowable so long a U.S. Flag Carrier is used for travel from origin to Delhi.

Domestic Travel in India on an Indian airline (from Delhi to Bangalore) would be allowable, with the exception to the Fly America Act being that there is no U.S. Flag Carrier that flies between Delhi and Bangalore.

As this trip is connecting personal travel with business travel, it will only be possible to request reimbursement for the price of a flight that would have been booked if only traveling for business.

Therefore, it is advisable to obtain a quote (on the same day of booking the actual trip) for the same flight path as if it was the return to Northeastern at the conference end.

It will be necessary to include this quote for a flight returning immediately after the conference in the reimbursement request for the return flight to be allowed on the grant.

If the round-trip ticket returning later than the conference ends is less expensive than a round-trip ticket returning immediately at the end of the conference, it would be possible to request reimbursement for the

business portions of the trip on the grant (assuming it also follows the above Fly America Act Guidelines).

If the round-trip ticket returning later than the conference end is more expensive than a round-trip ticket returning at the end of the conference, it would be possible to request reimbursement for the business portion of the trip on the grant up to the price of the round-trip ticket returning at conference end (assuming it also follows above Fly America Act Guidelines).

## Travel, Conferences, and Meetings

### Inquiry 1:

A PI has been asked by a recently graduated student (who is now a postdoc at another university) if their expenses to attend a scientific meeting to give a talk on their joint work can be supported by one of the PI's awards.

The PI's former student previously worked on and had personnel expenses allocated to one of the PI's awards.

#### **Response:**

Given that the PI's former student is employed at another university, unless the postdoc is actively working on the award in question, the proposed expense does not appear to meet the cost principles of allowability, reasonableness, or allocability, as defined in the Uniform Guidance.

While this expense is not an allowable expense based on Uniform Guidance, the PI should consult their department administrator regarding the use of start-up funds to support this expense.

## Participant Support Costs Charged to Award

### Inquiry 1:

Is it allowable for a PI to support non-Northeastern University student attendance at an international meeting as participant support costs on their NSF award?

#### **Response:**

A review of the proposal and award documentation for the NSF grant confirms that the project intends to support students attending discipline-specific meetings and events. It is also clearly indicated that some of the students would be from various institutions outside of Northeastern University.

Based on these points, and under the assumption that the meeting is the same as the one detailed in the proposal, covering non-Northeastern student expenses for participant support is within the scope of the award and should be an allowable cost for the project.

In the event the attendance is unrelated to an event described in the proposal, this would constitute a change in scope and require submission of a prior approval request via NU-RES.

The NSF PAPPG defines Participant Support, inclusive of specific allowable and unallowable costs under this cost category.

### Inquiry 2:

A PI would like to support 3-4 non-Northeastern graduate students attending a workshop that is a partner with the 'Research Program' student network. Typically, a 'Research Program' sponsored event that was 100% related to the 'Research Program's' student network would be supported/run by Northeastern. However, in this case, 1) the workshop is not 100% supported by 'Research Program', but is a partner, 2) Northeastern is not the organizer, 3) The PI would not be attending, and neither would Northeastern students.

#### **Response:**

The participant support costs related to this award are for the 'Research Fund' to support students who are attending an institution other than Northeastern to allow them to attend the 'Research Program' annual meeting and/or other 'Research Program' events. The workshop in question is not organized by the 'Research Program' or Northeastern. The 'Research Program' would act as a "partner" which does not clearly and definitively indicate that the event is a 'Research Program' event.

If this workshop refers to a 'Research Program' meeting, covering non-Northeastern student expenses for participant support is within the scope of the award and should be an allowable cost on the project. If this workshop is not hosted by the 'Research Program' as outlined in the original scope of work and budget justification, the PI should submit a prior approval request.

### Inquiry 3:

Do we need to request a prior approval for a rebudget when a PI wants to use participant support costs to cover travel expenses for NSF Research Experience for Undergraduates (REU) students? The conference would be relevant to the project, but travel for the REU students wasn't included in the original budget justification.

#### **Response:**

Participant Support Costs (PSCs) are direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects. Participants may include students, scholars, and scientists from other institutions, representatives of private sector companies, teachers, and state or local government agency personnel.

Travel includes the costs of transportation and associated costs and must follow sponsor guidelines (e.g., US flag carrier, coach class, most direct route) as well as Northeastern's travel policies and guidelines. The sole purpose of the trip must be to participate in the conference or training activity.

#### **Prior approval is not typically required if:**

1. **The rebudget is solely amongst PSC cost categories (stipends, subsistence allowances, travel, and other), as long as the scope of work remains the same and the PSC category was approved prior to the rebudget (at proposal or award stage).**
2. Funds are moving out of a non-PSC budget category and into a PSC budget category (so that more may be expended on PSC-related costs), as long as the scope of work remains the same and the PSC category existed prior to the rebudget (at proposal or award stage).
3. Any other situation as specified by the sponsor

The Panel has determined that you do not need to seek prior approval for this rebudget.

## Leave of Absence

### Inquiry 1:

A part-time student has been approved to take leave from September 15, 2022 – December 8, 2022. The student is eligible to receive 80% of pay per Northeastern policy for up to 20 weeks. Should the NSF grant continue to support the pay for the student on leave?

Is there a central HRM account that can be used?

#### **Response:**

Yes, the charges are allowed on the grant.

No, Northeastern does not have a central pooled account for this type of leave. If, however, the grant cannot support the leave the college may absorb these costs on their operational cost center to support the PI. Currently, the Northeastern fringe rate does not include FMLA or leave of this nature. Therefore, it is still an allowable cost that can be charged directly to the NSF grant.

## Subrecipients

### Inquiry 1:

An invoice was submitted by a small business subrecipient under a federally funded grant. The small business had a negotiated rate agreement which includes overhead, fringe benefits, and G&A (general & administrative) rates calculated. The invoice contains a consultant line item. There was no consultant line in the budget, so the department administrator asked the company what the consultant fee was related to. The company's business manager responded that the consultant fee was for their time managing the project because they were per diem staff and not a full-time employee of the company. Thus, the question became: is the cost of the business already recouped under the G&A, or may it be charged separately as a consulting fee?

#### **Response:**

We reviewed both Uniform Guidance and the [HHS guidance on rate agreements](#); *Appendix 1 outlines the expenses that go into G&A, which are all the expenses associated with the operation of the business, including the costs associated with administrative personnel. The company's business manager was focused on the overall operation of the business, including management of the tasks outlined in the G&A definition, including financial management, liaising on legal reviews, and other administrative tasks.*

Furthermore, since administrative tasks are already covered by the company's overhead, per Uniform Guidance 2 CFR 200.413 they are only allowable if they are: 1. integral to the project, 2. can be explicitly identified, and 3. have been approved by the federal funding agency as an allowable cost to the

project. While the business manager stated they could explicitly identify the costs associated with their time, the consultant fee failed the other two tests.

The employment relationship between the company and the business manager isn't relevant to Northeastern. In assessing if the cost is allowable, we had to pass two tests, is the cost already covered by the rate agreement and is it allowable. Since the G&A line is intended to capture the time of the company's business manager and there were no exclusions for the business manager's time and effort on the rate agreement, Northeastern ultimately concluded this charge would not be permitted.

**Outcome:**

The company was asked to remove the consultant line item and submit a revised invoice.

## Extra Compensation and Summer Salary

### Inquiry 1:

Would it be permissible for a PI to take 2 months of PI Extended Compensation on an NSF grant in the summer?

The NSF only allowed 2 months total NSF off-contract support but now they supposedly allow more. The PI has two half-month NSF indexes and a one-month index, adding up to a total of two summer months. The PI directs a Center and spends an enormous amount of time on both the research and the administrative side of this project, and I believe that warrants taking two months extended comp from this grant in addition to the other two half months on the other two grants.

**Response:**

Yes, the PI may request more than 2.0 months of summer salary from NSF Awards:

NSF PAPPG 23-1 states a limit on annual NSF-funded salary to two months. However, Northeastern does not consider that limit a cap given that NSF also provides rebudgeting authority to approve an increase in person months devoted to an award which results in salary support for senior personnel that exceeds the two-month salary policy. This increase in person months allocated to the award must be directly tied to work performed on the project(s) and must be in accordance with Northeastern's Summer Compensation Guidelines and Policy on Institutional Base Salary for Extramurally Funded Sponsored Projects.