Fly America Act
Use of U.S. Flag Carriers and Non-U.S. Flag Carriers

If a country is a member of the United States-EU Air Transport (Open Skies) Agreement:

*A European Union air carrier can be used across the water to a European Union member state or between any two points outside the United States. However, a US flag carrier must be used 1) if the transportation is between points for which there is a city-pair contract fare in effect for air passenger transportation services; or 2) if the transportation is obtained or funded by the Secretary of Defense or a military department.

Note: if a U.S. carrier provides transportation at a lower cost, the US flag carrier should be given primary consideration – all things considered. The key word is “consideration” not requirement.

*Those traveling on federal grants should have grant paperwork and reporting requirements provided by the government. Applicable exception forms are included in this paperwork or can be obtained from the federal government grant administrator. If a non US carrier is used, the travel agency should remind the traveler that the department/traveler will need to document internally. The agency should note that this information was provided to the traveler in PNR remarks or a field that will stay with achieved PNR history. If the traveler/department doesn’t have information, direct them to: http://www.ogc.doc.gov/ogc/fl/fald/itl/itlv14.pdf, the exception form at the end of the document. Bilateral or multilateral agreement is the area to check if a foreign carrier is used.

*If a country is not a member of the Open Skies Agreement a US flag carrier must be used (if no other exceptions apply) even if the cost is higher.

U.S.-EU Air Transport Agreement signed April 30, 2007

http://www.state.gov/e/eeb/rls/othr/2007/84475.htm
PDF version

Air Transport Agreement

THE UNITED STATES OF AMERICA (hereinafter the "United States"), of the one part; and
THE REPUBLIC OF AUSTRIA,
THE KINGDOM OF BELGIUM,
THE REPUBLIC OF BULGARIA,
THE REPUBLIC OF CYPRUS,
THE CZECH REPUBLIC,
THE KINGDOM OF DENMARK,
THE REPUBLIC OF ESTONIA,
THE REPUBLIC OF FINLAND,
THE FRENCH REPUBLIC,
THE FEDERAL REPUBLIC OF GERMANY,
THE HELLENIC REPUBLIC,
THE REPUBLIC OF HUNGARY,
IRELAND,
THE ITALIAN REPUBLIC,
THE REPUBLIC OF LATVIA,
THE REPUBLIC OF LITHUANIA,
THE GRAND DUCHY OF LUXEMBOURG,
MALTA,
THE KINGDOM OF THE NETHERLANDS,
THE REPUBLIC OF POLAND,
THE PORTUGUESE REPUBLIC,
ROMANIA,
THE SLOVAK REPUBLIC,
THE REPUBLIC OF SLOVENIA,
THE KINGDOM OF SPAIN,
THE KINGDOM OF SWEDEN,
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, being parties to the Treaty establishing the European Community and being Member States of the European Union (hereinafter the “Member States”), and
THE EUROPEAN COMMUNITY, of the other part;

DESIRING to promote an international aviation system based on competition among airlines in the marketplace with minimum government interference and regulation;

DESIRING to facilitate the expansion of international air transport opportunities, including through the development of air transportation networks to meet the needs of passengers and shippers for convenient air transportation services;

DESIRING to make it possible for airlines to offer the traveling and shipping public competitive prices and services in open markets;