

# PROCUREMENT AND USE OF OMB A-126-COVERED AIRCRAFT

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# Agenda

- Welcome
- Administration
- Terminal Learning Objective
- Topics not covered
- Course content delivery

# Welcome!

- Welcome to the annual Department of Health and Human Services' training on OMB A-126-covered Government aircraft.
- Your Operating Division or Staff Division leaders determined that you need to attend the training because you might:
  - Procure Government aircraft, or
  - Approve employees to travel on Government aircraft, or
  - Travel on Government aircraft, or
  - Support a travel program that manages and/or oversees employee travel
- This training is provided by:

Transportation Services,  
Real Estate, Logistics and Operations,  
Program Support Center  
Office of the Assistant Secretary for Administration

# Administration

- This training will take the full hour.
- Slides that have important points that must be remembered are indicated by a key icon, and by **bold**, underlined, or *italicized* text, or by text of color other than blue.
- There is a considerable amount of information to cover.
- The training is necessarily broad and cannot address every circumstance or exception.
- Your questions are important, so please submit them through the chat channel. Relevant questions will be used to improve policy and guidance.
- Some students might not agree with some of the content of this presentation. Just always keep in mind that employees are obligated to abide by the regulations, policies, and rules.
- Employee-student attendance for this year's courses is captured and will be submitted to OIG as evidence that the targeted workforce has been trained.

# Terminal learning objectives



- Today you will:
  - Gain a general understanding of OMB Circular A-126.
  - Learn the general policy/position of the Department with regards to procurement of Government aircraft and use of such aircraft by HHS employees.
  - Be taught the general overarching rule for procurement of Government aircraft.
  - Be instructed on the general rules for travel on board Government aircraft.
  - Learn who the three HHS Executives are by position who may consider requests to procure or travel on OMB 126-covered Government aircraft.
  - Understand the process for requesting to travel on board Government aircraft.
  - Gain insight into the administration of this topic, such as record keeping and reporting.
  - Receive generalized examples.

# Items not covered or covered in depth

- Procurement of Government aircraft is regulated by OMB Circular No. A-76 and the Federal Acquisition Regulations.
- This training will not teach students how to procure OMB A-126-covered aircraft.
- If there is a need to procure OMB A-126-covered aircraft, then consult with an acquisition professional and follow the laws and regulations on the topic as well as the guidance they give in tandem with this guidance.
  - If there is any doubt, then do not act without consulting the experts.
- This training will not teach employees loopholes or shortcuts that might enable skirting of law, regulations, directives, or guidance.
- Likewise, the training will not address every variation or circumstance.
  - General examples are provided to review at your leisure.

# OMB Circular A-126



- The Office of Management and Budget tightly regulates Government aircraft procurement and use as a mode of transportation through OMB Circular A-126.
- The circular is a directive issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; Executive Order 11541; and 31 U.S.C. 1344.
- All employees are bound to abide by the regulation.

# OMB A-126 execution



- Procurement: In addition to OMB Circular No. A-76, the Federal Acquisition Regulation and HHS Procurement Policy governs the mechanisms by which OMB A-126-covered aircraft are procured, which includes the leasing, chartering, and purchasing of these aircraft.
- Travel: The use of such aircraft is governed by OMB A-126 and, more prescriptively, by the Federal Travel Regulation and the HHS Transportation Policy Manual (a.k.a. “the travel policy manual”).
- This training is specific to use of the Government aircraft as a mode of transportation.

# OMB A-126 execution authorities



- Procurement: The only person who may approve the acquisition/procurement of OMB A-126-covered aircraft is the HHS General Counsel.
- The only persons who may consider requests for employees to travel on board OMB A-126-covered aircraft are (in order of the routing):
  - The Agency Senior Travel Official, AND
  - The General Counsel, AND
  - The Assistant Secretary for Administration
- HHS employees shall not presume to have authority to procure or travel on Government aircraft absent express authority to do so.
  - For this purpose, “express” means explicitly and in writing.

# Government aircraft defined



- OMB A-126 defines Government aircraft as:
  - “Any aircraft owned, leased, chartered, or rented and operated by an Executive Agency.”
- Basically, if an employee of the United States Government can decide who operates the aircraft, when it departs or arrives, who may or may not travel on it, where it will take off or land from, or the route it may travel, or any one of or combination of these preceding criteria, then it’s an OMB A-126-covered Government aircraft.

# Travel on Government aircraft



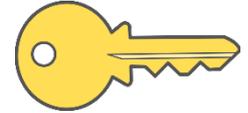
- Government aircraft shall only be used for (i) official travel; or (ii) on a space available basis subject to the following policies:
  - a. Official travel that is not also required use travel or to meet mission requirements shall be authorized only when:
    - (i) no commercial airline or aircraft (including charter) service is reasonably available (i.e., able to meet the traveler's departure and/or arrival requirements within a 24 hour period, unless the traveler demonstrates that extraordinary circumstances require a shorter period) to fulfill effectively the agency requirement; or
    - (ii) the actual cost of using a government aircraft is not more than the cost of using commercial airline or aircraft (including charter) service. When a flight is being made to meet mission requirements or for required use travel (and is certified as such in writing by the agency which is conducting the mission as required in Section 10.b.), secondary use of the aircraft for other travel for the conduct of agency business may be presumed to result in cost savings (i.e., cost comparisons are not required).

# General Department policy



- It is expected that employees shall travel on commercial aircraft using City Pairs Program (CPP) fares, or non-contract fares if CPP fares are not available, and that employees shall exhaust all means to seek out and obtain such fares before seeking to procure and/or travel on board Government aircraft covered by OMB A-126.
- Use of OMB A-126-covered aircraft should be considered an option of last resort reserved for those situations that warrant the expenditure of appropriations when a commercial resource does not exist.
  - Unavailability of commercial service to meet one's schedule is not a valid reason.

# Understandings that support the policy



- Operational necessity shall not be derived lightly (e.g. perception that one’s supervisor insists that one “fly into the face of danger” / urgency at any cost); and
- Consideration of requests to travel on OMB A-126-covered aircraft shall not be “rushed,” “expedited,” or “pushed;” and
- Permission to travel on such aircraft shall not be presumed; and
- Public perception shall always be thoughtfully considered; and
- The requisite approvals shall be obtained before the travel occurs; and
- There is a high cost for using Government aircraft, so judicious application of public funds is an obligation and costs shall be recovered when appropriate; and
- Approving officials are expected to know and abide by the rules before requesting, when requesting, and when considering employee requests to travel on Government aircraft.

# Other important considerations

- Temporary Duty travel is the “low hanging fruit” of Government.
- The public, press, and public accountability organizations routinely obtain Government employees’ travel through records requests.
  - The higher the visibility of the employee’s position, the greater the likelihood that the records will be sought.
- Congress takes a dim view of use of OMB A-126-covered aircraft for routine travel.
- The public gets incensed by use of these aircraft in all but the most dire circumstances.
- There is rarely—if ever—a circumstance when use of such aircraft is warranted for routine Temporary Duty travel.

# OMB A-126-permitted use



- Government aircraft may be procured as a mode of transportation under three limited conditions:
  - Travel to meet mission requirements;
  - Travel because it is “required use;” and
  - Travel because space is available.

# Travel to meet “mission requirements”



- Government aircraft may be procured as a mode of transportation when commercial service is not available or (not) practicable because the Agency must perform a statutory mission.
- **IMPORTANT!: Speeches, attendance at conferences or meetings, press events, meetings with important public officials, routine site visits, and other mundane Temporary Duty does not qualify under this provision, even when it is an Executive Office agenda priority.**
- So what does qualify?
  - Example of “not available”: No commercial air service at all AND there is capacity for commercial air service.
  - Example of “not practicable”: The mass evacuation of non-ambulatory patients from hospitals.
    - For the most part, evacuations of ambulatory patients can be performed using commercial aircraft because commercial aircraft often continue to operate in hurricane watches until hours before the hurricane makes landfall.
  - Example of “not practicable”: When air samples must be taken (preparedness and actual event).
    - It would not be practicable to mount sensors to the fuselages or wings of commercial aircraft.

# Travel because it is “required use”



- The employee is required to use the Government aircraft because of security or communication requirements.
- Note that there are two specific criteria: 1) Security, or 2) Communication requirements.
- What is “communication requirements” for “required use?”
  - This means secure communications such as SIPRNet, SecureSkies, other classified communications nets.
  - It does not mean, “Because the employee needs to make in-flight telephone calls, use their computer, text, etc., etc.”

# Travel because it is “required use”



- What is “security” for “required use?”
  - When there is a security exclusion cordon/perimeter that must be maintained by a bona fide protection detail.
  - Perception of importance or even overt threats does not establish a “required use” foundation.
    - E.g.: An employee evaluates a controversial drug or holds a senior position and there are people who have made threats to harm them.
- When considering if one meets the “required use” security standard, keep this guide in mind:
  - When Sen. Orrin Hatch became President pro tempore of the Senate upon the swearing in of 114<sup>th</sup> United States Congress, he continued to travel on official Government business using Economy class commercial airline seating.
  - The President pro tempore is third in the presidential line of succession.

# Travel because it is “required use”



- What is “security” and “communications” for “required use?”
- Example of legitimate “required use”: An employee might accompany the President on Air Force One. An OMB A-126-covered aircraft is used for the supporting personnel, such as military, protection detail, health, or other necessary personnel. This would be “required use” because both physical security and communications would be necessarily secured.

# Special exceptions: “required use”

- A Federal officer or employee does not need to obtain written approval for required use travel if:
  - The Secretary has determined that all travel by the officer or employee or travel in specified categories qualifies as required use travel, or
  - The President has determined that all travel, or travel in specified categories, by the Agency head qualifies as required use travel.
    - For the purpose of OMB A-126, this provision is extended to the Head of each HHS Operating Division
  - The determination by the Secretary that an OpDiv head’s travel qualifies as required use travel must be in writing and the narrative must set forth the basis for that determination.
  - In special emergency situations, an after-the-fact written certification by an agency is permitted.
- The determination that travel by an officer or employee may be required use travel must be established according to written standards for determining when required use travel is permitted. Such travel is not permitted unless in conformance with such written standards.

# HHS “required use” written standards



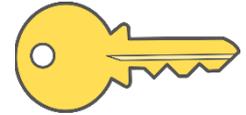
- “Required use” includes:
  - If the President or the Vice President direct the HHS Secretary or an Operating Division head to accompany them aboard Executive Office aircraft.
  - When the Secretary or an Operating Division head must attend to their duties under declared national emergency circumstances.
- All other employees who believe that the nature of their positions establishes that they meet the criteria for “required use” for all of their travel must submit a request memorandum via the Agency Senior Travel Official to be granted permission to travel under “required use” circumstances. “Required use” travel shall not be performed for routine business unless express written approval is granted beforehand.
- Regardless of position within HHS, a travel authorization must still be created and submitted through the E-government Travel System when traveling under “required use” circumstances.

# Travel because “space is available”



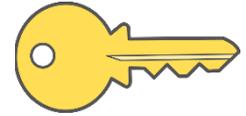
- All of the following criteria must be met before an employee may travel with an OMB A-126-covered aircraft as their mode of transportation for Temporary Duty:
  - If an Agency –including a military branch– has space available on the aircraft, and
  - The employee must be authorized to perform Temporary Duty, and
  - The employee must obtain permission from the three Executive-level approvers first in getting that TDY request approved, and
  - The aircraft’s use must be already scheduled for another purpose (not the employee’s TDY travel need), and
  - The use cannot cause the needed aircraft size to increase, and
  - The cost of the seat must be determined, and
  - The cost of the seat must be reimbursed to the Agency that owns/leases/charters the aircraft.

# Seating cost recovery



- OMB A-126 prescribes specific standards for recoupment of costs for Government aircraft seating.
- The value of the seating of any OMB A-126-covered aircraft used under “required use” or “space available” rules and for political or personal reasons shall **always** be recouped.
  - When for political purposes, see 11 C.F.R. 106.3.
- The onus is upon the employee to obtain the value of the seating from the OMB A-126-covered aircraft owner.
- If the value cannot be ascertained or is not provided within a 30 days, then the reimbursement rate for each seat is according to the method established by HHS.

# Leased/chartered seat cost recovery factoring when use for political or personal reasons



- The total contracted cost of the aircraft (including any excise taxes, acquisition fees, flight line fees, or other fees) divided by the number of persons who traveled on board the aircraft at the time of departure.
  - E.g.: Total cost ÷ number of passengers = per seat fee.
  - Example: If the total aircraft costs \$20,000 to lease/charter and there are four employees who traveled on the aircraft, then each employee must reimburse the Government \$5,000.
- Liability of the indebtedness cannot be assigned to another person or entity by the employee, but reimbursement may be made by another person or entity.

# “Space available” & “required use” seat cost recovery factoring



- The cost of a normal commercial Economy class airline ticket of an airline that services the route between the starting point and the stopping destination shall be determined, or
- Absent any law, regulation or ruling specifying otherwise, it shall be presumed that the Government aircraft would have departed with an empty seat if it had not been offered by the aircraft owner to the employee on a space available basis. A cut-rate/discount/last-minute fare as offered on commercial travel Web sites may be used if the destination points are the same. Otherwise, the commercial Economy fare as made available by an airline servicing the route shall be used.
  - The employee must provide proof of the availability of that fare for the day of travel departure.
- City Pairs Program fares shall not be used, as these are pre-negotiated and deeply discounted, they do not change, and not all markets/destinations are served.

# Reimbursement of costs to the Government

- Personal check, certified check, or money order made payable to the “Treasurer of the United States” through the designated debt servicing office (financial operations).
- Annotate the TDY travel authorization number (a.k.a. “TANUM”), the employing Operating Division’s abbreviation, and the following text on the check or electronic payment submission, as well as in any associated correspondence.
- The text may be truncated as long as the context is not altered or lost: “Reimbursement for Government aircraft seating used for (political or personal) purpose.”
  - Example: TANUM1234 FDA Reimbursement for Gov’t aircraft seating used for (political/personal) use.

# Reimbursement of costs to the Government

- Reimbursement shall be made within 30 days of the travel.
- If reimbursement is not made within 30 days, then offset will be initiated.
- If the indebtedness is not settled by the 120<sup>th</sup> day, then the matter shall be referred to the Bureau of Fiscal Services for offset as Federal non-tax debt pursuant to the Debt Collection Improvement Act of 1996 (as amended by the Digital Accountability and Transparency Act of 2014).

# Restitution to other Agencies

- If it's determined that an employee may travel aboard the aircraft on a “space available” or “required use” basis for official business, then:
  - The employee shall not be reimbursed for common carrier transportation.
  - The employee will obtain the value of the seat from the aircraft owner.
  - Within 30 days of the travel occurring, the employee shall make restitution of the value of the seat to the Agency that owns/leased/chartered the aircraft.
  - Payment shall be made via Intra-Governmental Payment and Collection (IPAC)
- If the employee used “space available” or “required use” seating on another Agency’s owned/leased/chartered aircraft for personal or political reasons, then the employee shall not be reimbursed the cost.
  - Instead, the employee shall make restitution within 30 days to the Agency that owns/leased/chartered the aircraft according to that Agency’s procedures.

# Government's liability

- “Liability” means the limits that the Government shall be obligated to pay.
- Liability is limited to the cost of the lowest-price City Pairs Program fare or the actual cost incurred, whichever is less, if an employee:
  - Charters/leases/procures an OMB A-126-covered aircraft, and
  - Travels on OMB A-126-covered aircraft, and
  - Does not have prior authorization to travel on or procure the aircraft, and
  - Performs the Government's business, and
  - Actually incurs a cost, regardless of amount.

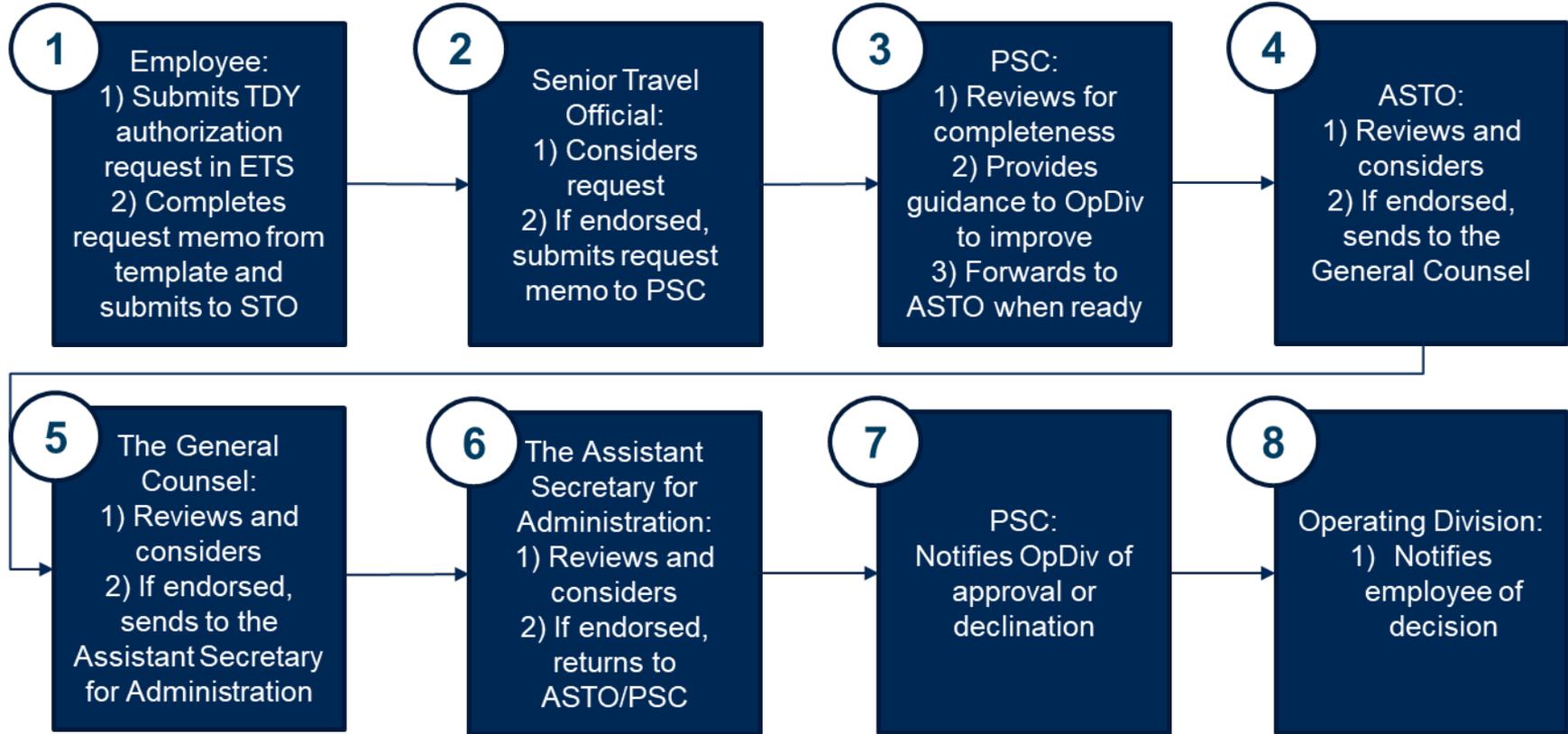
# Government's liability illustrated

- For training purposes only:
  - An employee travels charters, leases, or procures an OMB A-126-covered aircraft for \$5,000 to travel from Chicago to New York, and performs the Government's business. They then submit a claim to the Government for \$5,000.
- The City Pairs Program's fares for the route are \$135 for a \_CA fare and \$275 for a YCA fare.
- The Government's liability is \$135.

# Food and drink on Government aircraft

- Any food or drink consumed must be paid by the employee to the aircraft operator.
- Catered food/drink shall not be ordered without the express written permission of a warranted HHS Contracting Officer.
- Employees shall not imply or infer to aircraft operators, including aircrew, that food/drink should be provided.
  - Great care should be taken in this regard, especially when traveling on military aircraft.
- When Government aircraft use is authorized, M&IE shall not exceed 100% of the amount authorized for the day of travel.
- If food/drink wasn't requested, but is offered without charge by the aircrew, then this may be accepted the same as when a commercial airline offers food as part of the service.

# Travel on Government aircraft request process



# Requesting to travel on Gov't aircraft



- A request to travel on Government aircraft starts with:
  - Reviewing the OMB A-126 Government Aircraft Request template,
  - Completing and submitting a request memorandum through the Operating Division Senior Travel Official, and
  - Completing the submitting a request to perform Temporary Duty through the E-Government Travel System.
    - The employee selects “Government Aircraft” as the mode of transportation. This ensures they will not be reimbursed for traveling on board Government aircraft.
- Only when express, written approval has been given by the Agency Senior Travel Official, the General Counsel, and the Assistant Secretary for Administration is the request process complete.
- There are no exceptions to this process.

# Reporting requirements



- Use of Government aircraft must be reported twice yearly to the General Services Administration
- Anyone who is a Senior Official, a family member of a Senior Official, and non-Federal travelers.
- Exception: Does not include those covered by 10 USC 4744
- Let's address a couple exceptions first....

# Special exceptions

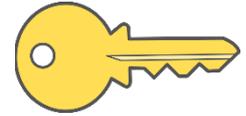
- There are certain Government-owned aircraft that are exempt from OMB A-126 reporting requirements:
- Air Force One (and Air Force Two)
  - These are the U.S. Air Force-owned/operated aircraft used to transport the President of the United States and the Vice President of the United States, respectively.
- Marine One (or Marine Two)
  - These are the U.S. Marine Corps-owned/operated helicopters used to transport the President of the United States and the Vice President of the United States, respectively.

# Those covered by 10 USC, 4744



- This has been renumbered as 10 U.S. Code § 2648, “Persons and supplies: sea, land, and air transportation.”
- Use of Government aircraft does not have to be reported for the following:
  - ....
  - “(2) Other officers of the United States traveling on official business.
  - .....
  - “(5) The families of members of the armed forces, officers and employees of the Department of Defense or the Coast Guard, and persons described in paragraphs (1), (2), and (4).
  - “However, a person described in paragraph (4) or (5) may be so transported only if the transportation is without expense to the United States.”

# Who are “Senior Federal officials?”



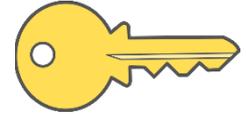
- Senior Federal officials are persons:
  - (i) employed at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5 of the U.S. Code;
  - (ii) employed in a position in an Executive Agency, including any independent agency, at a rate of pay payable for level I of the Executive Schedule or employed in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule;
  - (iii) employed in a position in an Executive Agency that is not referred to in clause (i) (other than a position that is subject to pay adjustment under Section 1009 of Title 37 of the U.S. Code) and for which the basic rate of pay, exclusive of any locality-based pay adjustment under section 5304 of title 5 of the U.S. Code (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the rate of basic pay payable for the Senior Executive Service under Section 5382 of title 5 of the U.S. Code; or

# Who are “Senior Federal officials?” cont’d



- Senior Federal officials are persons:
  - (iv) appointed by the President to a position under section 105(a)(2)(A), (B), or (C) of title 3 of the U.S. Code or by the Vice President to a position under section 106(a) (1) (A), (B), or (C) of title 3 of the U.S. Code.
- Generally, these are persons employed by the White House and Executive agencies, including independent agencies, at a rate of pay equal to or greater than the minimum rate of basic pay for the Senior Executive Service. Exempted from this definition, for purposes of this Circular, are active duty military officers.
  - HHS is the Executive agency. Operating Divisions are components of the Executive agency, so these persons at the Operating Divisions are included by extension.
  - For the purpose of the reporting, commissioned officers of the U.S. Public Health Service—although they are employees of HHS and not members of military unless assigned as such during wartime—and their family members are excluded from the definition of “Senior Federal officials.” See 10 USC, 4744.

# Annual training obligation



- Certain employees are required to complete training on OMB A-126-covered Government aircraft annually through the HHS Learning Management System or via Virtual Instructor Led Training (if offered).
- Training is required for:
  - Senior Federal officials,
  - Those who approve employee TDY travel,
  - Employees who might travel on OMB A-126-covered aircraft, and
  - Operating Division staff who support travel programs.
- Complete each FY before January 1st.
- PSC plans to post the on-line training to the LMS in November 2020.

# Records retention



- Records of travel on OMB A-126-covered aircraft shall be kept according to NARA records retention schedule or two years, whichever is greater.
- Each time an aircraft is chartered/leased/used, the following data elements will be captured and sent to PSC in memorandum format:
  - The tail number of the plane used;
  - The date(s) used;
  - The name(s) of the pilot(s) and flight crew;
  - The purpose(s) of the flight;
  - The route(s) flown;
  - The names of all passengers; and
  - The procurement means used (a copy of the contract, Blanket Purchase Agreement, Purchase Card charge, Task Order, etc., etc.).
- Records shall be presented for inspection upon request of the HHS Office of Inspector General or other parties as appropriate.

# When in doubt....



- Always establish a clear understanding of authority to procure or travel on board OMB A-126-covered aircraft before doing it!
- Consult with the Operating Division Senior Travel Official, the supporting travel program management staffs, procurement officials, and the Program Support Center if there is any doubt.
- The collective aim is to enable employees to be successful by ensuring the use of such aircraft is in compliance with laws, directives, policies, and procedures.

# Examples

- The following examples are illustrative only. They are not intended to cover every instance or situation, nor are they intended to prescribe the full operating parameters.
- The operating parameters are ultimately determined by OMB A-126, regulations, and established policies, and the expressed authority of those Executives who are the deciding officials.

# Examples



- An employee supports a high-ranking HHS official, and has been asked to travel to a location to make arrangements for the official's appearance at an event. The event is the next day at 3 p.m. It is now 5 p.m. EST.
- May the employee charter an aircraft for this purpose?
- No! The employee should call the Travel Management Center and arrange for a "red eye" City Pairs Program flight, or find another mode of transportation. The employee might have to advise his supervisor that the task cannot be done.
- But wait a second....

# Examples



- In the preceding example, doesn't that meet the OMB A-126 exception that states that the charter can be used for departure/arrive requirements of less than 24 hours?
- No! The schedule of the event doesn't matter, nor does OMB A-126 respect the demands.
- What matters is whether or not a commercial flight is available within 24 hours!
- That means that if there is a flight by any commercial airline departing between that day at 5 p.m. EST and the next day at 5 p.m. EST, and which ultimately gets the employee to the destination, then a charter/leased aircraft shall not be used.
- This standard alone makes it extremely difficult—nearly impossible—to justify use of charter/leased aircraft.

# Examples

- An employee is providing grief counseling to wildfire victims. A firefighting aircraft's flight crew wants to show its appreciation for what the HHS employee is doing, so they offer for the employee to join them on a “familiarization” flight as they pick up fire retardant and drop it on the fire line.
- May the employee fly on the aircraft?
- No! If the employee does not have an official business purpose directly related to the job they're performing at that time, then the employee should not board the aircraft.

# Examples



- An employee must go to Fargo, N.D. for a meeting and then later that day to Grand Forks, N.D., which is just 90 miles away. To get from Fargo to Grand Forks, the employee would have to fly back to Denver and catch another flight. It would be a lot quicker to go to the local airport and get a private pilot to fly them there and back, and maybe even shorten the TDY by a day or two. The cost is about the same as a commercial ticket.
- May the employee charter the private aircraft?
- No! The employee must either use the City Pairs Program flight, or obtain a Government vehicle or rental car and drive there. The employee is obligated to plan the Temporary Duty to use strategic sources and follow the travel regulations correctly. Shortcuts and convenience to the employee are irrelevant. Strategic sourcing requirements sometimes even makes an instant cost savings irrelevant.

# Examples

- A U.S. Public Health Service commissioned officer must travel on a Department of Justice Prisoner and Alien Transportation System (JPATS) aircraft to monitor the health of those being transported. This is a routine business activity.
- May the commissioned officer travel on board the aircraft without prior authorization from the Secretary?
- Yes, but the employee must have an approved travel authorization in the E-Government Travel System to do so.

# Examples

- Commissioned officers of the U.S. Public Health Service traveled aboard OMB A-126-covered Government aircraft hundreds of times during the fiscal year.
- Does the Temporary Duty travel have to be reported to the General Services Administration twice yearly?
- No, they are exempt from the reporting requirements, but each of the employees must have had approved travel authorizations in the E-Government Travel System to perform the Temporary Duty travel.

# Examples

- An employee must visit the Supai Reservation at the bottom of the Grand Canyon. There is a helicopter service with scheduled flights that sells tickets on a “first come, first served” basis.
- Is this a charter aircraft?
- No! When a commercial air service sells tickets for seats and the Government employee does not control where the aircraft flies to, when it takes off, or provide other directives, then it is not a charter aircraft.

# Examples

- An employee must visit the Supai Reservation at the bottom of the Grand Canyon. There is a helicopter service with scheduled flights that sells tickets on a “first come, first served” basis. The flights are all sold out for the day, but the service’s sightseeing flights aren’t booked for the day. For the normal cost, the service offers to take the employee to the village as soon as the employee’s ready.
- May the employee use this service?
- No. It’s a charter service. The giveaway was that it’d depart at the employee’s leisure. The onus is on the employee to ensure they understand the service, and—if it’s an OMB A-126-covered aircraft—they must obtain permission first from the ASTO, the General Counsel, and the ASA.

# Examples

- An employee must visit the Supai Reservation at the bottom of the Grand Canyon. There is a helicopter service with scheduled flights that sells tickets on a “first come, first served” basis. The flights are all sold out for the day. For the normal cost, the service offers to add another flight to the schedule for the day that would go to the village.
- May the employee use this service?
- Yes. Now it’s not a charter service; it’s a regularly scheduled service. The giveaway was that the flight was added to the schedule; it’s not departing at the employee’s leisure. The onus is on the employee to ensure they understand the terms of the service being provided.

# Examples



- An employee believes aeromedical evacuation is needed to transport a patient to a treatment location. The employee believes an aircraft capable of bio-medical isolation is needed, which must be contracted for.
- May the employee request to procure this service?
- Yes, but the employee must first complete the request template and submit it through the Operating Division Senior Travel Official for routing to the Department Executives for consideration.
- Remember: only the General Counsel may approve the procurement of an OMB A-126-covered Government aircraft.

# Examples

- A DHS Customs and Border Protection small aircraft is scheduled to depart tomorrow from Ronald Reagan National Airport to fly to San Diego, Calif., a regular trip performed by that Agency. An HHS employee who is taking annual leave learns about the flight, asks DHS/CBP if there is a space available seat, and is offered the seat.
- Is Executive approval required for the employee to use the “space available” seat?
- Yes! Further, the employee must find out what the value of the seat is and reimburse the Government for its value. If DHS/CBP cannot discern the value of the seat, then the value is determined according to the factoring method established in the HHS Transportation Policy Manual.

# Examples



- An employee believes a charter aircraft is needed to evacuate non-ambulatory patients out of a zone where a hurricane is projected to make landfall. The employee clears it through the Executive head of their Operating Division or Staff Division, ensures that funds are obligated for the procurement, obtains multiple price quotes, and coordinates with an HHS-warranted contracting officer to procure the aircraft from the appropriate GSA Schedule. All of the FAR and HHSAR obligations have been met 100%...and then some!
- May the HHS-warranted contracting officer sign the contract without further approvals?
- No! The contracting officer must first have the express written approval of the HHS General Counsel first before they may exercise their authority to enter the Government into a binding agreement to procure OMB A-126-covered Government aircraft. Only the General Counsel may approve charter aircraft procurements.

# Examples

- The General Counsel has authorized the procurement of an OMB A-126-covered Government aircraft by an HHS-warranted contracting officer. The aircraft is a commercially available chartered aircraft procured from the GSA Schedule. The flight is scheduled and everything is ready to go! And, there are HHS employees standing on the flight line waiting to board.
- What is needed for the HHS employees to board the aircraft?
- Each employee—regardless of pay grade or type of appointment—is required to have an approved travel authorization in the E-Government Travel System AND the express written approval of the Agency Senior Travel Official, the General Counsel, and the Assistant Secretary for Administration prior to boarding an OMB A-126-covered Government aircraft.

# References & Resources

- The following resources are available to HHS employees who require more information about this topic:
  - OMB Circular A-126
  - OMB Circular A-76
  - HHS Transportation Policy Manual
  - This training presentation
  - HHS Learning Management System
    - A Computer-Based Training (CBT) module is under development
  - The PSC Web site: [www.psc.gov](http://www.psc.gov)
    - OMB A-126 Government Aircraft Request template

PSC

The logo consists of the letters 'P', 'S', and 'C' in a white, serif font. A vibrant yellow, ribbon-like graphic element weaves through the letters, starting from the bottom left, passing behind the 'P', crossing over the 'S', and ending behind the 'C'.