

Acceptance of Payment from a Non-Federal Source For Travel Benefits While in Official Capacity

The Department of Defense (DoD) may accept travel benefits (transportation, lodging, meals, and related expenses), in-kind or by reimbursement, from non-Federal sources (such as organizations, associations, or businesses) for DoD personnel in their official capacities to attend meetings, conferences, seminars, symposia, and other similar functions. 31 U.S.C. § 1353. DoD personnel must be on funded travel orders. This authority to accept payment is not appropriate for permissive TDY. The General Services Administration implemented the statutory authority in the Federal Travel Regulation, 41 C.F.R. Part 304-1, which DoD must follow.

For travel benefits to be accepted from a non-Federal source, the travel approving authority (official who signs travel orders) must usually approve the acceptance **prior** to the travel. The sole exception allows the travel approving authority to approve, within 7 working days after the trip ends, acceptance of transportation, lodging and meals (not any related expenses) within the maximum allowed on the travel authorization if offered on the spot during travel that was already approved in advance. If the employee accepts travel benefits after the Department rejected the offer, the employee is responsible for reimbursing the non-Federal source.

In order to accept the travel payments, either before or after the travel, the travel approving authority must make the following determinations:

- Payment is for attendance at a meeting, conference, seminar, speaking engagement, symposium, training course, or receipt of an award or honorary degree related to official duties. The event cannot be a “widely attended gathering.”
 - This authority does not permit acceptance of payments for promotional vendor training or other events in which the primary purpose is marketing the non-Federal source's products or services.
 - This authority does not permit acceptance of payments for events that are essential or required to carry out an agency's statutory and regulatory functions, such as inspections, audits, site visits, or negotiations.
 - This authority does not permit acceptance of payments for travel by other than coach-class, or in excess of the Government prescribed subsistence allowances unless it is consistent with the exceptions in the Joint Travel Regulation and 41 C.F.R. §304-5.4 and 5.5.
- Payment is for travel related to the employee's official duties, and the employee must be in a travel status. Payments or benefits offered by a non-Federal source may be limited by qualifying acceptance to attend only a portion of the function that is deemed to be in the Government's interest.
- Travel is in the interest of the Government.

- Payment may be accepted only from a non-Federal source that is not disqualified because of a conflict of interest. The approving authority must review the circumstances to determine that acceptance would not cause a reasonable person with knowledge of all the relevant facts to question the integrity of the Government's programs or operations. This consideration should include:
 - the identity of the non-Federal source
 - the purpose of the meeting
 - the identity of other expected participants
 - the monetary value and character of the travel benefits
 - whether there is any matter pending at their DoD component that may affect the interest of the non-Federal source, and if so its nature and sensitivity and the significance (if any) of the proposed traveler's role in the matter
 - any impact the performance or nonperformance of the traveler's official duties might have on the non-Federal source.

Procedures:

These determinations should be in writing. A model memorandum is included as Attachment A. The acceptance of travel benefits **should be approved by the employee's travel approving authority before being forwarded to a DoD ethics counselor for concurrence.** To the extent possible, the report referred to below should be completed and attached to the memorandum prior to the signatures.

Benefits in kind (*e.g.*, plane tickets, prepaid hotel reservations) are preferred. **Cash may not be accepted by DoD employees.** If benefits are provided by reimbursement of expenses, checks must be made payable to the U. S. Treasury or the DoD Component, not to the employee.

Since these travel benefits are provided to the Government, they should not be listed as gifts on the financial disclosure reports (OGE Forms 278e or 450) of the affected Government employee.

Reports:

After the travel is complete, if the total value of the payments exceeds \$250, a report (Attachment B) must be forwarded to the ethics counselor for inclusion in the semi-annual report to the Office of Government Ethics. SF 326, "Semiannual Report of Payments Accepted from a Non-Federal Source," and SF 326A, "Semiannual Report of Payments Accepted from a Non-Federal Source-Continuation," may be found at the following web sites:

<http://www.gsa.gov/portal/forms/download/116238>, and
<http://www.gsa.gov/portal/forms/download/116242>.

Forms and questions should be submitted to your local ethics counsel.

Attachments

A - Memorandum for Record: Acceptance of Travel Benefits

B - Report of Payments

ATTACHMENT A

Date:

MEMORANDUM FOR RECORD

SUBJECT: Acceptance of Travel Benefits In Accordance With 31 U.S.C. 1353

Travel benefits have been offered by [non-Federal source] to accommodate the participation of [employee name] in [name of meeting or similar event] on [date of meeting] in [place of meeting]. This meeting is not essential to DoD Component's mission and is not promotional vendor training or other marketing. The travel is related to the employee's official duties and the employee will be participating in an official capacity. This travel is in the interest of the Government and travel authorization has been issued. Travel benefits will be provided in kind or by check or similar instrument made payable to the "U.S. Treasury."

I have considered the identity of [non-Federal source], the purpose of the meeting, the identity of other expected participants, and the monetary value and character of the travel benefits. I have also considered whether there is any matter pending at [DoD Component] that may affect the interest of [non-Federal source], and if so its nature and sensitivity and the significance (if any) of [employee name]'s role in the matter. I have considered any impact the performance or nonperformance of [employee name]'s official duties might have on the non-Federal source. Based on these considerations, I find that [non-Federal source] is not disqualified due to a conflict of interest and make the following determinations:

- Acceptance of these travel benefits would not cause a reasonable person with knowledge of all the relevant facts to question the integrity of the [DoD Component]'s programs or operations; and.
- Acceptance of these travel benefits is permissible under applicable travel regulations.

Acceptance of these travel benefits is approved, subject to Ethics Counsel review and concurrence. This memorandum will be coordinated with Ethics Counsel prior to acceptance.

Travel Approving Authority

Traveler's Point of Contact: _____

Phone: _____

Ethics Counselor Coordination: Concur _____

Non-concur _____

ATTACHMENT B

Date:

MEMORANDUM FOR: Ethics Counselor

SUBJECT: Report of Payments for Travel Benefits from a Non-Federal Source
Pursuant to 31 U.S.C. 1353

Name of Traveler:

Grade or Rank:

Position:

Office Address:

Point of Contact (if any)/Telephone:

Event:

Sponsor(s) of Event (include any significant co-sponsors, e.g., "University of Texas, in conjunction with, Longhorn Defense Corporation"):

Location of Event:

Date of Event:

Travel Dates:

Nature of Participation ("speaker", "attendee", etc.):

Non-Federal Source of Payment (who actually pays):

Nature of Payment: Check In-kind payment Both

Total Value of Benefits Received (estimated before travel; actual amounts upon return):

Lodging:

Transportation:

Meals:

Miscellaneous:

Attachment: Travel Approving Authority Determination