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Travel Rules for the Executive Branch

Officers and employees of executive branch agencies (including independent agencies) may accept payment from non-federal sources for travel and related expenses with respect to attendance of the employee (or the spouse of such employee) at any meeting or similar function relating to the official duties of the employee.

The conditions under which officers and employees of an executive branch agency may accept payment are prescribed by the Administrator of General Services. In most instances, these procedures require prior approval from the agency itself, in consultation with the Office of Government Ethics.

Agencies and Employees Subject to Regulation

The agencies subject to the regulations are the following:

- Executive agencies;
- Military departments;
- Offices, agencies or other establishments in the legislative branch; and
- The Government of the District of Columbia.

Employees in the executive branch who may accept payment for non-federal travel expenses are:

- Appointed officers or employees; and
- Experts or consultants.¹

Entities that Can Pay for Travel

“Non-federal source” means any person or entity other than the Government of the United States. The term includes any individual, private or commercial entity, nonprofit organization or association, international or multinational organization or foreign, State or local government (including the government of the District of Columbia).²

There are no regulations prohibiting acceptance of travel payments from specific non-federal sources (e.g., lobbyists). Federal Travel Regulations state only that the approving official must not authorize acceptance of the payment if he/she determines that acceptance of the payment under the circumstances would cause a reasonable person with knowledge of all the facts relevant to a particular case to question the integrity of agency programs or operations.³ Nevertheless, the official should evaluate an offer to pay for travel from a non-federal source according to the following criteria:

- Identity of the source;
- Purpose of the meeting;
- Identity of other expected participants;
- Nature and sensitivity of any matter pending at the agency that may affect the interest of the source;
- Significance of the employee's role in any such matter; and
- Monetary value and character of the travel benefits offered.

Meetings Covered by this Regulation

The term "meeting" is defined as a conference, seminar, speaking engagement, symposium, training course, or similar event that takes place away from the employee's official station. It does not include a meeting or other event required to carry out an agency's statutory or regulatory functions such as investigations, inspections, audits, site visits, negotiations or litigation. It also does not include promotional vendor training or other meetings held for the primary purpose of marketing the non-federal sources products or services.

A meeting need not be widely attended for purposes of this definition and includes but is not limited to the following:

- An event where the employee will participate as a speaker or panel participant focusing on his/her official duties or on the policies, programs or operations of the agency.
- A conference, convention, seminar, symposium or similar event where the primary purpose is to receive training other than promotional vendor training, or to present or exchange substantive information of mutual interest to a number of parties.
- An event where the employee will receive an award or honorary degree, which is in recognition of meritorious public service that is related to the employee's official duties, and which may be accepted by the employee consistent with the applicable standards of conduct regulations.⁴

This statute is the only authority that regulates accepting payment for travel expenses from a non-federal source for a meeting. However, an employee may accept payment for travel expenses to events other than meetings from a non-federal source pursuant to an agency gift rule.

In addition, other options for accepting travel payments are possible:

- For acceptance of contributions, awards, and other payments from tax-exempt entities for non-government sponsored training or meetings.⁵
- For travel taking place entirely outside the United States, which is paid by a foreign government, where acceptance is permitted by the traveler's agency and any regulations that may be prescribed by the agency.⁶

- When payment is for travel to be performed for a partisan rather than an official purpose but in accordance with the Hatch Act, in which the meeting is a widely attended gathering.⁷

Definition of Travel Expenses

Travel, subsistence, and related expenses that can be paid by non-federal sources means:

- Fares, rental fees, mileage payments, and other expenses related to transportation;
- Food, lodging or other travel-related services for official travel (e.g., baggage expenses, services of guides, drivers, interpreters, communication services, renting conference rooms, lodging taxes, laundry/dry cleaning, taxi fares, etc.); and
- Conference or training fees (in whole or in part), as well as benefits that cannot be paid under the applicable travel regulations, but which are incident to the meeting, provided in kind, and made available by the meeting sponsor(s) to all attendees. For example, this would allow an employee or spouse to attend a sporting event hosted by the sponsor(s) in connection with the meeting that is available to all participants. However, it would not allow the employee to accept tickets to a professional sporting event, concert or similar event, for use at a later date even if such tickets were given to all other participants.⁸

Agency Approval of Travel Expenses

- A federal agency must approve payment of travel expenses by non-federal sources in advance of the travel.⁹
- The agency may authorize common carrier transportation (e.g., aircraft, train, bus, ship), government vehicle, private owned vehicle or special conveyance (e.g., taxi or commercial automobile).¹⁰
- The employee may accept payment from a non-federal source on behalf of the agency after the beginning of the travel only if the agency had already authorized acceptance of payment for some of the travel expenses for that meeting from the same non-federal source, and the expenses paid are comparable in value to those offered to all other government officials and employees in attendance.¹¹

Allowable Expenses

- a) A federal agency may authorize use of a higher-class but not first-class common carrier accommodations when a non-federal source pays in full for the transportation expenses.¹²
- b) Subsistence expenses of federal employees are usually limited to the maximum subsistence allowances (per diem, actual expenses or conference lodging)¹³ for travel in the continental United States, by the Secretary of Defense for travel in non-foreign areas and by the Secretary of State for travel in foreign areas. However, acceptance of payment

for an employee and the accompanying spouse of such employee are not subject to the maximum per diem or actual subsistence expense rates when traveling in the United States or in non-foreign areas under the following conditions:

- The non-federal source pays the full amount of the subsistence expense, as authorized by your agency;
- The subsistence expense paid by the non-federal source is comparable in value to that offered to or purchased by other meeting attendees; and
- The federal agency has approved acceptance of payment from the non-federal source prior to the travel; if the agency has not approved any acceptance from the non-federal source, the employee may not exceed the maximum allowances.¹⁴

The maximum subsistence allowances prescribed by the Secretary of State for travel to foreign areas may not be exceeded.

- d) Employees may not accept a monetary payment in the form of cash from a non-federal source. Monetary payment(s) must be in the form of a check or similar instrument made payable to the agency.¹⁵
- e) A non-federal source may pay for a spouse to accompany the employee when it is in the interest of and authorized in advance by the federal agency. The agency may determine that the spouse's presence at an event is in the interest of the agency if the spouse will:
- Support the mission of the federal agency or substantially assist the employee in carrying out official duties;
 - Attend a ceremony at which the employee will receive an award or honorary degree; and
 - Participate in substantive programs related to the agency's programs or operations.¹⁶

As long as payments received from a non-federal source are made to or on behalf of the federal agency, the employee is not required to report them as gifts on any confidential or public disclosure report.¹⁷ However, the employee may be required to report payments received on the employee's own behalf, pursuant to other reporting requirements (e.g., payments for private travel).

Disclosure Requirements

The responsibility of reporting travel expenses paid for by non-federal sources to the Office of Government Ethics (OGE) rests with each federal agency. Payments of more than \$250 accepted from a non-federal source on behalf of individual employees must be reported.¹⁸ For purposes of the \$250 threshold, payments for an employee and accompanying spouse shall be aggregated. The reports shall specify the amount and method of payment, the name of the person making the

payment, the name of the employee, the nature of the meeting or similar function, the time and place of travel and the nature of the expenses.

The Director of OGE makes such reports available for public inspection and copying within 30 days after the applicable due date or within 30 days after the date OGE actually receives the report, whichever is later.¹⁹

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Endnotes

¹ Sec. 3109 of title 5.

² 41 CFR §304-2.1.

³ 41 CFR §304-5.3.

⁴ 41 CFR §304-2.1.

⁵ Regulations issued by the Office of Personnel Management at 5 CFR part 410, under 5 U.S.C. 4111.

⁶ 5 U.S.C. 7342.

⁷ 5 U.S.C. 7321-7326.

⁸ 41 CFR §301-10.2.

⁹ 41 CFR §304-1.2.

¹⁰ 41 CFR §301-10.3.

¹¹ 41 CFR §304-3.13.

¹² 41 CFR §304-3.8.

¹³ 41 CFR §304.

¹⁴ 41 CFR §304-3.11.

¹⁵ 41 CFR §304-6.1.

¹⁶ 41 CFR §304-3.14.

¹⁷ 41 CFR §304-3.17.

¹⁸ 31 U.S.C. §1353.

¹⁹ 41 CFR §304-6.8.