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agency (*i.e.*, electronic fund transfer (EFT), money order, charge card, etc.) or payment in kind.

Payment in kind means transportation, food, lodging, or other travel-related services provided by a non-Federal source instead of monetary payments to the Federal agency for these services. Payment in kind also includes waiver or discount of any fees that a non-Federal source collects from meeting attendees (*e.g.*, registration fees), but does not include waivers or discounts of an employee's fees on the day(s) they are participating in the meeting or similar function as a speaker, panelist, or presenter.

Travel, subsistence, and related expenses (travel expenses) means the same types of expenses payable under chapter 301 of this title, the Foreign Affairs Manual (FAM), and the Joint Travel Regulations (JTR) for transportation, food, lodging or other travel-related services for official travel (*e.g.*, baggage expenses, services of guides, drivers, interpreters, communication services, hire of conference rooms, lodging taxes, laundry/dry cleaning, taxi or TNC fares, or the cost of utilizing an innovative mobility technology company, etc). These expenses also include 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 definition as applied to this chapter 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. The Foreign Affairs Manual is available at <https://fam.state.gov>. The Joint Travel Regulations are available at <https://www.defensetravel.dod.mil/site/travelreg.cfm>.

[FTR Amdt. 2003-02, 68 FR 12604, Mar. 17, 2003, as amended by FTR Amdt. 2017-01, 83 FR 605, Jan. 5, 2018; 84 FR 55248, Oct. 16, 2019; 85 FR 39850, July 2, 2020]

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PART 304-3—EMPLOYEE RESPONSIBILITY

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AUTHORITY: 5 U.S.C. 5707; 31 U.S.C. 1353.

SOURCE: FTR Amdt. 2003-02, 68 FR 12604, Mar. 17, 2003, unless otherwise noted.

Subpart A—General

§ 304-3.1 To whom do the pronouns “I”, “you”, and their variants refer throughout this part?

Use of pronouns “I”, “you”, and their variants throughout this part refers to the employee.

§ 304-3.2 What is the purpose of this part?

The purpose of this part is to establish Governmentwide policy and guidance for acceptance by a Federal agency of payment for travel expenses from a non-Federal source for employees to attend meetings. It describes how such payments must be accepted by the agency for travel of agency employee(s) and/or his/her spouse for official Government travel. Except as provided in § 304-3.13 of this part, advance agency approval is required to receive such payments.

§ 304-3.3 May my agency or I accept payment for travel expenses to a meeting from a non-Federal source?

Yes, you or your agency may accept such a payment from a non-Federal source, but you may only accept when your agency specifically authorizes such acceptance under the requirements of this part. Except as provided in § 304-3.13 of this part, your agency

must approve acceptance of such payment in advance of your travel.

§ 304-3.4 What payments may my agency or I accept from a non-Federal source?

You or your agency may accept payments other than cash from a non-Federal source for all of your official travel expenses to attend a meeting of mutual interest, or any portion of those travel expenses mutually agreed upon between your agency and the non-Federal source. You may not accept payments for travel that is not to attend a meeting under this part. However, you may be able to accept payments under other authorities (see § 304-3.19).

§ 304-3.5 May I solicit payment of my travel expenses from a non-Federal source to attend a meeting?

No, you may not solicit payment for travel expenses from a non-Federal source to attend a meeting.

§ 304-3.6 May I inform a non-Federal source of my agency’s authority to accept payment for travel expenses to attend a meeting?

Yes, you or your agency may inform the non-Federal source of your agency’s authority to accept payment for travel expenses to attend a meeting.

§ 304-3.7 What must I do if I am contacted directly by a non-Federal source offering to pay my travel expenses to attend a meeting?

If you are contacted directly by a non-Federal source offering to pay any part of your travel expenses to attend a meeting, you must inform your agency, so that the authorized agency official can determine whether to accept the payment.

§ 304-3.8 Must I adhere to the provisions of the Fly America Act when I receive air transportation to a meeting furnished or paid by a non-Federal source?

No, if the payment or ticket was paid in full directly by the non-Federal source or reimbursed to your agency by the non-Federal source, the provisions of the Fly America Act do not apply. (See §§ 301-10.131 through 301-10.143 of this title for the regulations implementing the Fly America Act.)

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§ 304-3.9 May I use other than coach class accommodations on common carriers when a non-Federal source pays in full for my common carrier transportation expenses to attend a meeting?

Yes, you may use other than coach class accommodations on common carriers if you meet one of the criteria contained in § 301-10.103 of this subtitle, and are authorized to do so by your agency in accordance with § 304-5.5 of this chapter.

[FTR Case 2020-300-1, 87 FR 55707, Sept. 12, 2022]

§ 304-3.10 Is my agency's acceptance of a waived or discounted registration fee from a non-Federal sponsor of a meeting or similar function considered a payment in kind for the day(s) I am participating as a speaker, panelist, or presenter at the event?

(a) No. Your agency's acceptance of a waived or discounted registration fee from the non-Federal sponsor of the event is not a payment in kind for the day(s) you are participating as a speaker, panelist, or presenter. However, your agency's acceptance of a waived or discounted registration fee is a payment in kind for the days you only attend the event (*i.e.*, on the day(s) you are not participating as a speaker, panelist, or presenter).

(b) Lodging, transportation, meals, event tickets, or other similar items of value provided by a non-Federal source are a payment in kind. If these types of expenses are included in a registration fee that is waived or discounted on the day(s) you are participating as a speaker, panelist, or presenter, you may accept them only with your agency's approval in accordance with this chapter. Specifically, if the registration fee includes meal(s), the meal(s) are a payment in kind. You may accept the meal(s) only if authorized to do so by your agency. If your agency authorizes acceptance of meal(s), you must also deduct the meal(s) from your M&IE per diem on your travel voucher using the deduction amounts listed for the locality at <https://www.gsa.gov/mie> unless you are unable to consume the meal(s)

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due to an exception provided in § 301-11.18 of this chapter.

[84 FR 55248, Oct. 16, 2019]

§ 304-3.11 Am I limited to the maximum subsistence allowances (per diem or actual expense) prescribed in applicable travel regulations for travel expenses paid by a non-Federal source?

Generally yes. Subsistence expenses are usually limited to the maximum subsistence allowances (per diem or actual expense) prescribed in chapter 301 of this title for travel in CONUS, 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, and when applicable, reimbursement by an agency to 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 CONUS or in non-foreign areas under the following conditions:

(a) The non-Federal source pays the full amount of the subsistence expense, as authorized by your agency; and

(b) The subsistence expense paid by the non-Federal source is comparable in value to that offered to or purchased by other meeting attendees; and

(c) Your agency has approved acceptance of payment from the non-Federal source prior to your travel; if your agency has not approved any acceptance from the non-Federal source, you may not exceed the maximum allowances. See § 304-3.13.

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

[FTR Amdt. 2003-02, 68 FR 12604, Mar. 17, 2003, as amended by FTR Amdt. 2013-01, 78 FR 65212, Oct. 31, 2013]

§ 304-3.12 Must I receive advance approval from my agency before I perform travel paid by a non-Federal source to attend a meeting?

Yes, you must receive advance approval from your agency before performing travel paid by a non-Federal source to attend a meeting except as provided in § 304-3.13.

§ 304-3.13 After I begin travel to a meeting, what should I do if a non-Federal source offers to pay for one or more of my travel expenses without my or my agency's prior knowledge?

(a) If your agency has already authorized acceptance of payment for some of your travel expenses for that meeting from a non-Federal source, then you may accept on behalf of your agency, payment for any of your additional travel expenses from the same non-Federal source as long as—

(1) The expenses paid or provided in kind are comparable in value to those offered to or purchased by other similarly situated meeting attendees; and

(2) Your agency did not decline to accept payment for those particular expenses in advance of your travel.

(b) If your agency did not authorize acceptance of any payment from a non-Federal source prior to your travel, then—

(1) You may accept, on behalf of your agency, payment from a non-Federal source as authorized in this section—

(i) Only the types of travel expenses that are authorized by your travel authorization (*i.e.*, meals, lodging, transportation, but not recreation or other personal expenses); and

(ii) Only travel expenses that are within the maximum allowances stated on your travel authorization (e.g., if your travel authorization states that you are authorized to incur lodging expenses up to \$100 per night, you may not accept payment from the non-Federal source for a \$200 per night hotel room);

(2) You must request your agency's authorization for acceptance from the non-Federal source within 7 working days after your trip ends; and

(3) If your agency does not authorize acceptance from the non-Federal source, your agency must either—

(i) Reimburse the non-Federal source for the reasonable approximation of the market value of the benefit provided, not to exceed the maximum allowance stated on your travel authorization; or

(ii) Require you to reimburse the non-Federal source that amount and allow you to claim that amount on your travel claim for the trip.

(c) If you accept payment from a non-Federal source for travel expenses in violation of paragraph (a) or paragraph (b) of this section, you may be subject to the penalties specified in § 304-3.18.

§ 304-3.14 May a non-Federal source pay for my spouse to accompany me to a meeting?

Yes, a non-Federal source may pay for your spouse to accompany you when it is in the interest of and authorized in advance by your agency. All limitations and requirements of this part apply to the acceptance of payment from a non-Federal source for travel expenses and/or agency reimbursement of travel expenses for your accompanying spouse. Your agency may determine that your spouse's presence at an event is in the interest of the agency if your spouse will—

(a) Support the mission of your agency or substantially assist you in carrying out your official duties;

(b) Attend a ceremony at which you will receive an award or honorary degree; or

(c) Participate in substantive programs related to the agency's programs or operations.

§ 304-3.15 Must I provide my agency with information about any payment I receive on its behalf?

Yes. Your agency must submit to the U.S. Office of Government Ethics (OGE) a semiannual report (SF 326) of all payments it accepts under this part. You must be prepared to give your agency the information it needs in order to submit its report.

Subpart B—Reimbursement Claims

§ 304-3.16 What must I submit to my agency for reimbursement when a non-Federal source pays all or part of my travel expenses to attend a meeting?

You must submit a travel claim listing all allowable travel expenses that you incurred which were not paid in kind by a non-Federal source. Do not claim travel expenses that were furnished in kind by a non-Federal source. Your reimbursement is limited to the types of expenses authorized in Chapter 301 of this title or analogous provisions

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of the Joint Travel Regulations or Foreign Affairs Manual. Reimbursement from your agency for expenses will not in any case exceed the amount of the expenses you incur. Such reimbursement will also adhere to established regulatory limitations except where your agency accepts payments under § 304-5.4, § 304-5.5 or § 304-5.6 of this chapter.

Subpart C—Reports

§ 304-3.17 If I am required to file a confidential or public financial disclosure report, must I report travel payments I receive from a non-Federal source on that report?

Generally, no. As long as payments you receive from a non-Federal source are made to or on behalf of your agency, you are not required to report them as gifts on any confidential or public disclosure report you are personally required to file pursuant to law or Office of Government Ethics (OGE) regulations (5 CFR part 2634). However, you may be required to report any such payments that you and/or your accompanying spouse receive on your own behalf, rather than on the agency's behalf, pursuant to other reporting requirements (e.g., those required by the Ethics in Government Act of 1978).

NOTE: The confidential financial disclosure report is OGE Form 450 and the public financial disclosure report is SF 278.

Subpart D—Penalties

§ 304-3.18 What happens if I accept a payment from a non-Federal source that is in violation of this part?

If you accept payment from a non-Federal source in violation of this part—

(a) You may be required, in addition to any other penalty provided by law and applicable regulations, to pay the general fund of the Treasury, an amount equal to any payment you accepted; and

(b) In the case of reimbursement under paragraph (a) of this section, you will not be entitled to any reimbursement from the Government for your travel expenses that the payment was intended to cover.

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Subpart E—Relation to Other Authorities

§ 304-3.19 Are there other situations when I may accept payment from a non-Federal source for my travel expenses?

Yes, you may also accept payment of travel expenses from a non-Federal source under the following authorities, in addition to this part:

(a) Under 5 U.S.C. 411 for acceptance of contributions, awards, and other payments from tax-exempt entities for non-Government sponsored training or meetings (see regulations issued by the Office of Personnel Management at 5 CFR part 410).

(b) Under 5 U.S.C. 7342 for travel taking place entirely outside the United States which is paid by a foreign government, where acceptance is permitted by your agency and any regulations which may be prescribed by your agency.

(c) Under 5 U.S.C. 7324(b) when payment is for travel to be performed for a partisan rather than an official purpose in accordance with the Hatch Act (5 U.S.C. 7321-7326); or

(d) Pursuant to the applicable standards of ethical conduct regulations concerning personal acceptance of gifts. For example, under 5 CFR 2635.204(e), which authorizes executive branch employees to accept gifts based on outside business employment relationships. (Note: You may also be able to accept attendance at, but not other travel expenses to, a widely attended gathering under 5 CFR 2635.204(g) when the gathering is not a meeting, as defined in this part, and you are not attending in your official capacity. Unless authorized to do so by your agency, you may not accept travel, subsistence, or related expenses, including meals, offered by a non-Federal source for participation as a speaker, panelist, or presenter at a meeting or similar function that takes place away from your permanent duty station. Such expenses are considered payments in kind and must be accepted, if at all, in accordance with this part.)

[FTR Amdt. 2003-02, 68 FR 12604, Mar. 17, 2003, as amended at 84 FR 55248, Oct. 16, 2019]