

4 FAH-3 H-380 CERTAIN GIFTS OF TRAVEL AND TRAVEL EXPENSES

(CT:FMP-48; 03-28-2008)
(Office of Origin: RM/FPRA/FP)

4 FAH-3 H-381 GENERAL

(CT:FMP-48; 03-28-2008)

31 U.S.C. 1353 provides authority for agencies to accept payments from non-Federal sources in connection with the funding of certain official travel. Payments can be accepted only from non-Federal sources by the Department if they are for "travel, subsistence, and related expenses," as outlined in this chapter. The Act does not permit acceptance of payments unless the employee is in travel status (i.e., away from post). However, if such payments for expenses incurred while the employee was not on travel status are otherwise appropriate, they may be accepted by a Department official authorized to accept gifts under Sec. 105(f) of Fulbright-Hays and the State Department Basic Authorities Act (22 U.S.C. 2697).

4 FAH-3 H-381.1 Authority

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- a. 31 U.S.C. 1353;
- b. 5 U.S.C. 5701 – 5709; and
- c. 41 CFR Part 301-1 and Chapter 304.

4 FAH-3 H-381.2 Purpose

(CT:FMP-48; 03-28-2008)

- a. This section sets forth the procedures for the acceptance and use of payments for travel, subsistence, and related expenses from non-Federal sources in connection with the official attendance during travel of employees at certain meetings and similar functions. This section also provides authority for the Department to receive payments in connection

with the attendance of an accompanying spouse in some circumstances.

- b. This section does not authorize personal acceptance of such payments by an employee or accompanying spouse of an employee.
- c. This section does not authorize solicitation by an employee or the Department from a non-Federal source for the covered travel. Employees may not mention the possibility of a gift of travel expenses before receiving an invitation to a meeting sponsored by a non-Federal source.

4 FAH-3 H-381.3 Definitions

(CT:FMP-48; 03-28-2008)

Conflicting non-Federal source: Any person or entity other than the Government of the United States that has interests that may be substantially affected by the performance or nonperformance of the employee's duties.

Employee: An appointed officer or employee of the Department of State. The definition excludes independent contractors who may be hired pursuant to 5 U.S.C. 3109.

Federal Travel Regulation (FTR): Govern expenses such as conference or training fees, as well as other benefits that cannot be paid under the applicable travel regulation and which are provided in kind and made available by the sponsor to all attendees incident to and for use at the meeting or similar function.

Meeting or similar function: A conference, seminar, speaking engagement, training course, or similar event that takes place away from the employee's official duty station and is sponsored or cosponsored by a non-Federal source.

Non-Federal source: Any person or entity other than the Government of the United States and includes any individual, private or commercial entity, nonprofit organization or association, state, local, or foreign government, or international or multinational organization.

Payment: Funds paid for travel, subsistence, and related expenses by check or similar instrument to the Department of State or payment in kind.

Payment in kind: Goods, services, or other benefits provided by a non-Federal source for travel, subsistence, and related expenses in lieu of funds paid to the Department by check or similar instrument for the same

purpose.

Travel, subsistence, and related expenses: The types of expenses payable under 41 CFR Chapter 301 or analogous provisions of 14 FAM 500, or volume 1 of the Joint Federal Travel Regulation (JFTR).

4 FAH-3 H-381.4 Delegation of Authority

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The Department of State may accept payments in accordance with the authorities and procedures of this section. This authority may not be redelegated. Any gift for the travel of a person to whom authority has been delegated must be approved at the next higher level.

4 FAH-3 H-381.5 Conditions for Acceptance of Payments for Employee Travel

(CT:FMP-48; 03-28-2008)

The authorized agency official must make the following three determinations before payment can be accepted for an employee's travel under this authority:

- (1) That payment is for an employee's attendance at a "meeting or similar function" (as defined in 4 FAH-3 H-381.3) that takes place away from the employee's official station;
- (2) That payment is for travel that relates to the employee's official duties, by examining both the nature of the meeting or similar function and the official duties of the employee; and
- (3) That payment is from a non-Federal source that is not disqualified on conflict of interest grounds or from a conflicting non-Federal source that has been approved under this section.

4 FAH-3 H-381.6 Payment From a Conflicting Source

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- a. Payment may be accepted from a conflicting non-Federal source if the conditions of acceptance are met (see 4 FAH-3 H-381.5) and the authorized agency official determines that the acceptance of the payment

would not cause a reasonable person with knowledge of the facts to question the integrity of agency programs. In determining whether to accept payment, the authorized agency official must consider all relevant factors, including the:

- (1) Identity of the non-Federal source;
 - (2) Nature and sensitivity of any pending matter affecting the interests of the conflicting non-Federal source;
 - (3) Significance of the employee's role in any such matter;
 - (4) Purpose of the meeting or similar function;
 - (5) Identity of other expected participants; and
 - (6) Value and character of the travel benefits offered by the conflicting non-Federal source.
- b. Agencies that receive authorization to issue J-1 visas or an organization that has such agencies as members must not be deemed "a conflicting source" for purposes of the Department's acceptance of payments for Department personnel to attend meetings or conferences (as defined in this section) of such agencies or organizations.

4 FAH-3 H-381.7 Payment From a Non-Federal Source Not Sponsoring the Event

(CT:FMP-48; 03-28-2008)

In addition to acceptance of payment from a non-Federal source that is sponsoring the event, payments may also be accepted from a non-Federal source that does not have an interest in the subject matter of the meeting or similar function as long as the payment is provided in kind and consists of the types of services the non-Federal source generally provides, such as air passenger transportation services provided by a commercial airline. Payments can be accepted from more than one non-Federal source in connection with a single event.

4 FAH-3 H-381.8 Spousal Travel

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The Department may accept payment under this part from a non-Federal source for an accompanying spouse when it is determined by the authorized

agency official that the spouse's presence at the meeting or similar function is in the interest of the agency. A spouse's presence may be determined to be in the interest of the agency if the spouse will:

- (1) Support the mission of the agency or substantially assist the employee in carrying out his or her official duties;
- (2) Attend a ceremony at which the employee will receive an award or honorary degree; or
- (3) Participate in substantive programs related to the agency's programs or operations.

The accompanying spouse must not be deemed a Government employee for any purpose other than eligibility for payment of travel, subsistence, and related expenses. Payment cannot be accepted for a spouse's travel unless the spouse is traveling to the same event as the employee.

4 FAH-3 H-381.9 Payment Guidelines

(CT:FMP-48; 03-28-2008)

- a. **Payment other than in kind.** Authorized payments from a non-Federal source for an employee and/or accompanying spouse, other than payments in kind, must be by check or similar instrument made payable to the Department of State and should be received by the employee or accompanying spouse on behalf of the Department. Neither the employee nor the spouse is authorized to receive cash, check, or a similar instrument made payable to the traveler.
- b. All checks or similar instruments will be given immediately to the appropriate Department official who has been authorized to accept such payment for approval and prompt forwarding to RM/GFS. RM/GFS will deposit the checks to the U.S. Treasury Department for credit to the Department's Salaries and Expenses appropriation or other appropriate account pursuant to the authority in 31 U.S.C. 1353(a). These deposits will be credited at the appropriation level and will be allotted subsequently to the elements incurring the travel costs. When the acceptance of payment has been approved in advance, the agency may accept payment in excess of applicable limitations (rates established in the FTR for travel in the continental U.S. and by the Secretary of Defense for travel in other nonforeign areas), provided that the accommodation or other benefit furnished is comparable in value to that offered to or purchased by other similarly situated individuals attending the meeting. When the applicable limitation will be exceeded, payment should be required in advance of the travel.

- c. **Payment in kind.** Payment in kind from a non-Federal source may be accepted in excess of the limitations under the applicable travel regulations, provided that the accommodation or other benefit is comparable in value to that offered to, or purchased by, other similarly situated individuals attending the meeting or similar function.

4 FAH-3 H-381.10 Travel Authorization

(CT:FMP-48; 03-28-2008)

The employee and the spouse must travel pursuant to official Department of State travel authorizations in order to use payments covered by this section.

4 FAH-3 H-381.11 Reimbursement to Employee or Accompanying Spouse

(CT:FMP-48; 03-28-2008)

- a. Each employee or spouse on whose behalf a payment has been accepted under this chapter must file a travel claim on an authorized reimbursement form. The employee or spouse will be reimbursed for expenditures in accordance with the Federal Travel Regulation or analogous provisions of the FAM and Joint Federal Travel Regulations.
- b. For purposes of filing a travel reimbursement claim, payments in kind for otherwise reimbursable expenses (such as transportation or lodging) are treated as if furnished by the Government.

4 FAH-3 H-381.12 Reporting

(CT:FMP-48; 03-28-2008)

- a. Semi-annual reports of payments, including payments in kind, of more than \$250 accepted under this chapter must be submitted to the Director of the Office of Government Ethics on May 31 of each year with respect to payments in the preceding period beginning on October 1 and ending on March 31; and November 30 of each year for payments received beginning on April 1 and ending September 30.
- b. Each authorized official must inform the management of any acceptance of each payment under this section from a non-Federal source that totals more than \$250 per event.
- c. The report from the authorized agency official must contain the following

information:

- (1) Each event for which payment of more than \$250 is accepted, including the event's sponsor, location, date, nature;
 - (2) Name of each employee and spouse (if applicable) for which such payment was accepted, including the employee's position and dates of travel;
 - (3) Identity of the non-Federal source from which payment was accepted;
 - (4) An itemization of the benefits accepted, and a description of the type of benefit, the value, and whether it was provided by check or in-kind;
 - (5) Time and place of travel; and
 - (6) Amount and method of the payment and the nature of the expenses.
- d. RM must have the responsibility of preparing the report to the Director of the Office of Government Ethics.

4 FAH-3 H-382 THROUGH H-389 UNASSIGNED