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 U.S. DEPARTMENT OF EDUCATION

DEPARTMENTAL DIRECTIVE

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Distribution:
 All Department of Education employees

Approved by: /s/ Christopher Marston for
 Michell Clark
 Assistant Secretary for Management

**Acceptance of Payment for Official Travel from a Non-Federal Source
 (In-Kind Travel)**

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For technical questions regarding this ACS document, please contact Eugene Jones via [e-mail](#) or on 202-260-4018.

Supersedes OCFO:3-102 Acceptance of Payment for Official Travel from a Non-Federal Source dated 05/30/2006.

I. Purpose

This directive sets forth policies and procedures regarding acceptance of direct payment, reimbursement, or payment in-kind from non-Federal sources to defray, in whole or in part, the costs of travel for U.S. Department of Education (Department) employees in connection with their attendance at a meeting or similar function.

II. Authority

The authority that permits the Department to accept payment for official travel from a non-Federal source is located at 31 U.S.C. Section 1353 and U.S.C. Sections 5701-5709. The authority is implemented in the General Services Administration's travel regulations at 41 C.F.R. Chapter 304.

III. Definitions

- A. AAB refers to Administrative Analysis Branch, Budget Execution and Administrative Analysis Division, Office of Planning, Evaluation and Policy Development.
- B. Approving Official refers to agency official delegated authority to determine the propriety of accepting payments and whose administrative level is commensurate with responsibility needed (who is at as high an administrative level as practical) to ensure adequate consideration and review of the circumstances surrounding the offer and acceptance of the payment.
- C. Cash refers to currency, coin, checks, drafts, or other commercial paper that is convertible into currency or coin.
- D. Costs of travel are those costs governed by applicable Federal Travel Regulations (FTR) and include costs related to transportation, meals, lodging, and related items incurred while traveling to perform official duties.
- E. Direct payment refers to a payment of cash or check made by the non-Federal source directly to the Department to cover costs of travel.
- F. Employee refers to an appointed officer or employee of the Department as defined in 5 U.S.C. 2105, including a special Government employee as defined in 18 U.S.C. 202, or an expert or consultant appointed under the authority of 5 U.S.C. 3109.
- G. Meeting or similar function refers to a conference, seminar, speaking engagement, symposium, training course, or similar event that takes place away from the employee's official station, and is sponsored or co-sponsored by a non-Federal source. This term does not include a meeting or other event required to carry out the Department's statutory or regulatory functions, such as investigations, inspections, audits, site visits, negotiations, or litigation. The term also does not include promotional vendor training or other meetings held for the primary purpose of

marketing the non-Federal source's products or services. A meeting or similar function includes, but is not limited, to the following:

1. An event at which the employee will participate as a speaker or panel participant, focusing on his or her official duties or on the policies, programs, or operations of the Department;
 2. A conference, convention, seminar, symposium or similar event the primary purpose of which is to receive training other than promotional vendor training, or to present or exchange substantive information concerning a subject of mutual interest to a number of parties;
 3. An event at which 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.
- H. Non-Federal source refers to 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 (irrespective of whether the Department holds membership in the organization or association), or foreign, State, or local government (including the government of the District of Columbia).
- I. Payment refers to a monetary payment from a non-Federal source to the Department for travel, subsistence, and related expenses by check or similar instrument made payable to the Department, or payment in-kind.
- J. Payment in-kind refers to transportation, food, lodging, or other travel-related services provided by the non-Federal source instead of a monetary payment paid to the Department by check or similar instrument for the same purpose. It also includes a waiver of any fees that a non-Federal source normally collects from meeting attendees.
- K. Reimbursement refers to transfer or payment of cash by check or similar instrument to the Department from the non-Federal source to cover the costs of travel.
- L. Recommending Official refers to the senior officer (Deputy Under Secretary, Assistant Secretary, or equivalent) who has line authority over the Department employee who seeks to have travel costs paid by a non-federal source.

IV. Policy

The policies contained in this Directive are, in almost all cases, required by regulations issued by the General Services Administration at 41 CFR Chapter 304. It is the policy of the Department that the authority quoted on Page 2, Section II of this Directive may only be used subject to the principles and restrictions shown on Page 4 of this Directive.

Levels of Approval/Concurrence		
Official	Title	Level
Recommending Official	Assistant Secretary or equivalent	Recommend Approval
Office of the General Counsel	Designated official	Concurrence
Approving Official	OS Chief of Staff	Final Approval

- A. The Department's salaries and expenses appropriations provide funds for official Department travel. Department staff shall not rely upon the authority stated above to shift the cost of a part of their normal cost of travel to non-Federal sources. Ordinarily, activities that warrant the expenditure of Department official time also warrant the expenditure of Department travel funds. However, there are times when it is appropriate for the Department to accept a gift of travel expenses to enable employees to attend meetings and similar functions. Gifts of travel provided by an ED employee for his or her official travel may be accepted in accordance with Departmental standards for acceptance of such gifts and are not covered in this Directive.
- B. Department employees shall not solicit the payment for cost of travel from non-Federal sources.
- C. An agency may accept payment for employee travel from a non-Federal source following a determination by the Approving Official that the payment is:
1. For travel relating to an employee's official duties (including attendance because the employee's presence at the meeting is necessary to permit participation in the meeting by another employee or because a spouse's presence at the meeting or similar function is in the interest of the agency) under an official travel authorization issued to the employee, and to an accompanying spouse when applicable;
 2. For attendance at a meeting or similar function; and
 3. Acceptable by meeting the standards contained in paragraph D.
- D. Payment from a non-Federal source shall not be accepted if the Approving Official determines that acceptance under the circumstances would cause a reasonable person with knowledge of all the facts relevant to a particular case to question the integrity of Department programs or operations. In making this determination, the Approving Official shall be guided by all relevant considerations, including, but not limited to:
1. The identity of the non-Federal source;
 2. The purpose of the meeting or similar function;
 3. The identity of other expected participants;
 4. The nature and sensitivity of any matter pending at the Department affecting the interests of the non-Federal source;

5. The significance of the employee's role in any such matter; and
6. The monetary value and character of the travel benefits offered by the non-Federal source.

The Department may find that, while acceptance from the non-Federal source is permissible, it is in the interest of the Department to qualify acceptance of the offered payment by, for example, authorizing attendance at only a portion of the event or limiting the type or character of benefits that may be accepted.

- E. If, while an employee is on official travel to a meeting or similar function at the expense of the Department, a non-Federal source offers to pay for all or some of the employee's travel expenses, the employee may:
 1. Decline the offer;
 2. If the Department had previously agreed to accept payment from a non-federal source for some of the travel expenses associated with this particular trip, then the employee may conditionally accept, on behalf of the Department, payment for any additional travel expenses from the same non-Federal source, provided that:
 - (a) the expenses paid or provided in-kind are comparable in value to those offered to or purchased by other similarly situated attendees; and (b) the Department did not decline to accept payment for those particular expenses in advance of the employee's travel; or
 3. Conditionally accept, on behalf of the Department, only (a) those type of travel expenses that are authorized by the employee's travel authorization (lodging, meals, transportation, but not recreation or other personal expenses); and (b) only travel expenses that are within the maximum allowances stated on the employee's travel authorization.
- F. If an employee accepts travel expenses under paragraph E, the employee must request Department authorization within 7 working days after the employee's trip ends. If the Department does not authorize acceptance of these expenses, then the Department must either:
 1. 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 the employee's travel authorization; or
 2. Require the employee to reimburse the non-Federal source that amount on the employee's travel claim for the trip.
- G. Subject to the exceptions discussed in paragraphs E and F, acceptance of an offer for payment of cost of travel shall occur only after the Approving Official has provided written authorization.
- H. Payment for costs of travel may not be accepted if the payment is to be made from funds received under any Federal contract or grant (not confined to Department grants

- I. Travelers may accept payment in-kind without reporting the fact whenever the monetary value is nominal and the offer was made more as a courtesy than to defray, in whole or in part, the expenses of all or part of the cost of travel. An example is the acceptance of an offer of a ride from a meeting place back to a local hotel in which the traveler is staying.
- J. Subsistence expenses are usually limited to the maximum subsistence allowances (per diem, actual expenses or conference lodging) prescribed in 41 CFR Chapter 301 for travel in the continental United States (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 payments for travel under this Directive is not subject to the maximum per diem or actual subsistence expenses when traveling in the CONUS or in non-foreign areas under the following conditions:
 1. The non-Federal source pays the full amount of the subsistence expenses, as authorized by the Department;
 2. The subsistence expenses paid by the non-Federal source are comparable in value to that offered to or purchased by other meeting attendees; and
 3. The Department has approved acceptance of payment from the non-Federal source prior to the employee's travel – if the Department has not approved any acceptance prior to travel, the employee may not exceed the maximum allowances.
- K. If a meeting or similar function does not concern a subject of mutual interest to the Department and the non-Federal source, acceptance of payment from the non-Federal source is limited to payment in-kind and to the types of services the non-Federal source generally provides. For example, a life insurance company offers to pay for the airline and hotel expenses of a Department employee to attend a conference on school choice. The life insurance company has no specific interest in the conference – other than the general interest in promoting school choice. The Department may not accept this offer because the conference does not concern a subject of mutual interest to the Department and the life insurance company and the life insurance company is not in the airline and hotel business.
- L. A non-Federal source may pay for the employee's spouse to accompany the employee to a meeting or similar function only when the spouse's presence at the meeting or similar function is in the interest of the Department. A spouse's presence at an event may be determined to be in the interest of the Department if the spouse will:
 1. Support the mission of the Department 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 Department's programs or operations.

V. Procedures and Requirements

- A. In instances where a non-Federal source offers to defray, in whole or in part, the costs of travel, the Recommending Official takes the following steps after the employee completes the [Request for Approval to Accept Payment for Official Travel from a Non-Federal Source](#):
 1. Reviews the invitation to travel and the offer to pay the costs of travel to –
 - a. Determine whether the travel is in the best interest of the Government, not merely the individual, by determining whether the employee's time in official pay status can most profitably be spent by making the trip; and
 - b. Determine that the reimbursement, if approved, will not violate any of the policies stated in [section IV](#).
 2. Makes a recommendation to the Approving Official who is authorized to approve acceptance of such payments regarding whether the payment of costs of travel from a non-Federal source should be authorized.
 3. A travel authorization must be prepared by the recommending office before the In-Kind request will be processed. You must reflect on the travel authorization 'In-Kind' travel as the 'Purpose' of travel. This will cause the authorization to route through the electronic travel system to the appropriate officials for approval.
- B. The Executive Secretariat will coordinate review by the Offices of the Secretary and the Office of the General Counsel. A travel authorization and any record of invitation or trip background information must accompany the request upon its submission to the Executive Secretariat.
- C. The General Counsel, or a designated official from that office, reviews the request to determine whether it is consistent with 41 C.F.R. Part 304 and any other applicable rules.
- D. The employee's request for authorization must be submitted to the Executive Secretariat at least three (3) weeks prior to the anticipated travel to ensure adequate time to review the request. If the request is made less than three (3) weeks in advance, an explanation for the delay must be approved.
- E. If authorization is appropriate, the Approving Official will indicate approval on a [Request for Approval to Accept Payment for Official Travel from a Non-Federal Source](#).

- F. The Executive Secretariat's office will provide the traveler with email notification of approval or disapproval and a copy of the signed form.
- G. If an employee accepts payment from a non-Federal source in violation of the rules contained in this directive, the employee may be required, in addition to any other penalty provided by law to pay the general fund of the Treasury an amount equal to the payment accepted. In addition, the employee will not be entitled to any reimbursement from the Department for any travel expenses that the payment was intended to cover.

VI. References

Other documents that can be used to supplement and clarify the policies and procedures stated in this directive are as follows:

- A. General Services Administration (GSA) Federal Travel Regulations (FTR) 41 C.F.R. Chapter 304 available at [http://www.gsa.gov/Portal/gsa/ep/programView.do?pageTypeId=8199&oid=14161&programPage=%2Fep%2Fprogram%2FgsaDocument.jsp&programId=8955&channelId=-14863#Chapters%20300-304%20Federal%20Travel%20Regulation%20\(All\)](http://www.gsa.gov/Portal/gsa/ep/programView.do?pageTypeId=8199&oid=14161&programPage=%2Fep%2Fprogram%2FgsaDocument.jsp&programId=8955&channelId=-14863#Chapters%20300-304%20Federal%20Travel%20Regulation%20(All))
- B. Department Directive – Handbook for Travel Policy, available under ConnectED at the following link: http://connected.ed.gov/doc_img/acs_hb_ocfo_05.doc
- C. Department References and Resources on connected; Guide to ED Correspondence available directly at <http://connected1.ed.gov/po/execsec/index.html>
- D. [Exhibit I – Request for Approval to Accept Payment for Official Travel from a Non-Federal Source](#)
- E. Procedures and Forms for Processing Gifts of Travel from Non-Federal Sources (Memorandum to Executive Officers from the Budget Service dated March 18, 2003)
- F. [Exhibit II - Instructions for Completing Acceptance of Gifts for Travel Expenses from Non-Federal Sources -- Form AAB-027](#)

Exhibit I: Request for Approval

Use this form to request approval for the Department of Education to accept travel expenses from a non-Federal source (that is, any organization or person, other than the Federal government, who has offered to provide a gift of travel) for an employee's official travel. Such expenses may be accepted only under limited circumstances, pursuant to General Services Administration Regulations. Failure to answer all questions will delay consideration of the request. Submit completed form, including the Principal Officer's Signature Indicating Recommendation on Page 3, to the Executive Secretariat in the Office of the Secretary at least three (3) weeks prior to the travel. The Executive Secretariat will coordinate review and decision by appropriate staff in the Offices of the Secretary and the General Counsel. If you have questions about how to complete this form, please call the Ethics Division in the Office of the General Counsel.

- TRAVELING EMPLOYEE Name: _____
 Position/Principal Office: _____
 Phone Number: _____
 Nature of Participation in Event (e.g., speaker, panel member, etc.): _____

- NON-FEDERAL SOURCE: Identify the organization or person providing the gift:

If the offer of the gift comes from someone other than the sponsor of the event, please identify:

Does the offeror have a mutual interest in the subject matter of the event? Please explain:

- NAME OF EVENT: _____
 Sponsor of Event (if different from Non-Federal Source): _____

 Location of Event: _____
 Nature of Event (conference, meeting, etc.): _____
 Dates of Event: _____
 Dates of Travel (if different): _____

- TRAVEL & BENEFITS: The following benefits will be received (Check all that apply):
 The value of the benefits MUST be listed.

____ Transportation -- Value: \$ _____
 _____ Air _____ Train _____ Other (describe): _____
 _____ Meals -- Value: \$ _____
 _____ Accommodations -- Value: \$ _____
 _____ Meeting or conference fees -- Value: \$ _____
 _____ Other (such as tips, cab fares) -- Value: \$ _____

TOTAL VALUE OF BENEFITS: \$ _____

- NATURE OF BENEFITS (check one)
 _____ Non-Federal source is reimbursing the Department;
 _____ Non-Federal source is providing benefits in-kind (such as a plane ticket or a hotel room); or
 _____ Both. Please explain: _____

Check if true:

_____ No Federal Funds received by the Non-Federal Source under any Federal contract or grant are being used to pay for this travel with the exception of those funds that may be lawfully used to defray the costs of travel. If not checked, travel may not be approved.

NOTE: TRAVELER MAY NOT ACCEPT REIMBURSEMENT DIRECTLY FROM THE NON-FEDERAL SOURCE.

6. Is the Department paying part of the cost for this travel? () Yes () No
If yes, please specify which part and the amount: _____

Conflict of Interest Analysis

The following questions must be answered in order to determine whether the Department may accept these travel expenses. Payment may not be accepted if it would cause a reasonable person to question the integrity of agency programs or operations. 41 CFR 304-1.5.

1. What is the purpose of the event? (For example: "The purpose of this conference is to bring providers and users together to discuss....")

2. Generally describe who else is expected to attend this event. (For example: individuals who work in a particular field, special education teachers, etc.)

3. What matters, if any, are pending in the traveling employee's principal office affecting the non-Federal source or, when appropriate, its members? Please provide a brief description of each such pending matter. If there are no matters pending at this time, please write "none."

4. Has the traveling employee worked on any matters involving the non-Federal source in the past 6 months or does the employee expect to work on any in the foreseeable future? If yes, describe the matters (grants, contracts, regulations, investigations, etc.), and the significance of the traveler's participation in the matter.

5. Does the value of the gift of travel exceed the current government per diem or contract rates for Federal government travel? If yes, is the non-Federal source providing similar travel benefits for other similarly situated participants in this event; e.g., if the traveling employee is one of 5 presenters or participants at a conference, is the non-Federal source providing similar accommodations and transportation for all of the presenters or other participants? If no, please explain.

6. Is the non-Federal source providing travel and benefits for other participants in this event? If no, please explain.

Has a Travel Authorization been prepared for this trip? _____ Yes _____ No
A Travel Authorization MUST be prepared before this request will be processed.

Department/Principal Office Contact for Further Information: _____ Phone No.: _____

RECOMMENDATION: I have determined that participation in this event is part of the traveling employee's official duties, and recommend acceptance of the above payment as being in the best interest of the government.

Signature (P.O. Head) Title Date

***** SUBMIT TO THE EXECUTIVE SECRETARIAT IN
THE OFFICE OF THE SECRETARY *****

CLEARANCE: Office of the General Counsel

Signature (OGC) Title Date

Comments: _____

APPROVAL: I hereby approve the acceptance of payment as stated above.

Signature (Chief of Staff, OS) Date

DISAPPROVAL:

Signature (Chief of Staff, OS) Date

Exhibit II: Instructions for Form AAB-027**Please Use The AAB-027 Form In Place Of A Cover Memo To OCFO**

NOTE: Principal Office (PO) must notify the Office of Planning, Evaluation and Policy Development (OPEPD)/Budget Service/Administrative Analysis Branch budget analyst of any anticipated in-kind travel checks from Non-Federal sources and the total amount, so that an apportionment can be prepared for OMB approval of the in-kind travel reimbursement and for OCFO/ELRG to deposit the check, transfer the obligation and expenditure for in-kind travel expenses from the direct S&E non-pay limitation code to the reimbursable non-pay limitation code.

The Principal Office must fill out an AAB-027 form per check received from the Non-Federal entity. The Form AAB-027 and instructions can be found on EDCAPS under Financial Forms, Budget Service EEB at: <http://edcapsrpt-c.ed.gov/>.

In addition, if the check is received after the end of the fiscal year, the funds cannot be used to reimburse the office. The check will be deposited in the Department's Miscellaneous Receipts account and the funds will go to the Treasury.