



Office of the Comptroller

Washington, D.C. 20531

Policy Statement

OCPS 7130.1

Subject: Use of Federal funds by grantees, contractors, and OJP Bureaus and Offices to provide food and beverages at specific events.

1. Purpose. This statement provides guidance to OJP Bureaus, Offices, grantees and contractors (not including subrecipients) that desire to provide food and/or beverages at an event. 1/ Where this policy allows for the provision of food and/or beverages, it does not require that a Bureau, Office, grantee or contractor provide food and/or beverages at these events.

2. Scope. The procedures included in this policy statement are to be followed by all grantees, contractors, and OJP Bureaus and Offices. Subrecipient requests may be reviewed and approved by the awarding agency or recipient if required by the awarding agency as defined in Chapter 3, Glossary of Terms, effective edition of the OJP Financial Guide. 1/

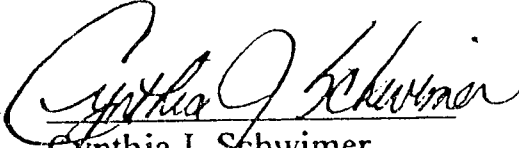
3. Policy. In accordance with the provisions of the Food and Beverage Policy, a grantee or contractor may use Federal funds for food and/or beverages when associated with a training session, meeting, or conference. Bureaus and Offices may use Federal funds for food and/or beverages when associated with a training session, meeting, conference, award ceremony, or retreat. Note: Food and beverage costs for events within events may be unallowable (see OJP Financial Guide, Food and Beverage Appendix, June 1999) 2/

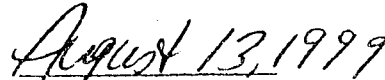
1/ Revised from previous edition dated 5/5/98. Requests for approval of food and beverage costs by subrecipients are not subject to review and approval by OJP.

2/ Mandatory attendance of all participants at related events is required for allowability of food and beverage costs at all events.

4. Procedures. Effective June 1999, OJP Bureaus, Offices, grantees and contractors do not need prior approval in accordance with the Food and Beverage Policy for Grantees and Contractors, but must comply with the requirements of the Policy Statement on the Use of Funds to Provide Food and Beverages (Attachment 1).

OJP grantees/contractors should maintain adequate documentation that supports use of food or beverage purchases using Federal funds.


Cynthia J. Schwimer
Comptroller


Date

Attachments:

Attachment 1 - Policy statement on the use of funds to provide food and beverages

Policy Statement on Federal Grantees, Contractors, & OJP Bureaus and Offices Use of Funds to Provide Food and Beverages

EXECUTIVE SUMMARY

Expenses for food and beverages incurred by **Federal grantees and contractors**¹ may be charged to Federal funds pursuant to program guidelines provided that three tests are satisfied:

- Test 1 - The food and beverages provided are incidental to a work-related event; and
- Test 2 - The costs of the food and beverages are considered reasonable; and
- Test 3 - Food and beverages are not directly related to amusement and/or social events.

A **Federal agency's** ability to use Federal funds to provide food or beverages is more limited. Exceptions to the general prohibition on using Federal funds for this purpose exist when:

- Funds for the food or beverages are specifically appropriated; or,
- Food or beverages are for training expenses; or,
- Food or beverages are for meeting or conference expenses; or
- Food or beverages are expenses associated with a retreat outside the employees' official duty station; or
- Food or beverages are expenses of a Federal employee award ceremony.

Food and beverage costs incurred by a **Federal agency** for Federal employees and others may be allowable when the following tests are satisfied:

Trainings:

- Test 1 - The training is for the purpose of providing a program or course of instruction or education in a field which will improve individual job related performance and organizational performance and assist in achieving the agency's mission and performance goals as defined by the Government Employees Training Act at 5 U.S.C. § 4101(4); and
- Test 2 - The agency determines that providing meals is necessary to achieve the objectives of the training program, that is, that the food is necessary in order for the employees to obtain the full benefit of the training. See 5 U.S.C. § 4109 (1994).

Meetings, Conferences:

- Test 1 - The food or beverage is part of a formal meeting or conference that is concerned with the functions or activities for which the appropriation is made or that will contribute to improved conduct, supervision, or management of the agency's functions or activities. See 5 U.S.C. § 4110

¹ Federal grantees are governed by cost principles set out in the Office of Management and Budget Circulars. Federal contractors are subject to the Federal Acquisition Regulations which have similar rules to those found in the OMB Circulars. Food and beverages must not be directly related to amusement and/or social events, and the beverages cannot include alcohol.

(1994). (An OJP meeting that focuses on day to day operations does not qualify under 5 U.S.C. 4110); and

Test 2 - The food or beverages provided are incidental to the meeting or conference; and

Test 3 - The food and beverages must be necessary to the Federal employee's full participation in the meeting or conference; and

Test 4 - The employee is not free to take his or her meals elsewhere without being absent from essential discussions, lectures, or speeches concerning the purpose of the meeting or conference.

Award ceremonies:

Test 1 - Recognition for an award is given to an employee who meets general criteria specified in the Government Employees' Incentive Awards Act, 5 U.S.C. §§ 4501-4503; and

Test 2 - The recognition is given at a formal, ceremonial function which is OJP-wide; and

Test 3 - Food and beverages will materially enhance the effectiveness of the ceremony and the cost of such food and beverages is considered reasonable.

Retreats:

Test 1 - The retreat must be held outside the official duty station as defined by this Policy, *i.e.*, the employee(s) is outside his or her official duty station as defined under the Federal Travel Regulations, chapter 301-7, and is entitled to per diem at a temporary duty station.

NOTE: Anyone under federal per diem allowances or reimbursements who is attending any of these events at which food and beverages are provided must deduct the cost of any full meals (i.e. lunch, dinner) provided from his or her per diem allowances.

1.0 Purpose

The purpose of the Policy is to provide guidance to a contractor, grantee, and OJP Bureaus and Offices that desire to provide food and/or beverages at an event. Even if this Policy allows the provision of food and beverages, it does not require that an OJP Bureau, office, contractor or grantee provide food and/or beverages at training sessions, meetings, or conferences.

Furthermore, while this Policy provides guidance, the examples contained in this Policy statement are not to be viewed as definitive, but rather as illustrations. Guidance should be applied within the context of each individual fact situation.

2.0 Definitions

For the purposes of applying the applicable rules covering the use of funds for food or beverages, the following terms are defined:

"Award ceremony" is a ceremony where the head of an agency may pay a cash award to, and incur necessary expense for, the honorary recognition of a Federal employee who, by his suggestion, invention, superior accomplishment, or other personal effort, contributed to the efficiency, economy, or other improvement of Government operations or achieved a significant

reduction in paperwork, or performed a special act or service in the public interest relating to his official employment. See 5 U.S.C. § 4503 (1994).

"Breaks" are short pauses in an ongoing informational program at trainings, meetings, conferences, or retreats. Typically, an all day event may include one break during a morning session, and one break during an afternoon session. Examples of foods items which may be served at breaks include foods such as, cookies, soda, fruit, etc.

"Conference" or **"meeting"** is a formal event involving topical matters of general interest, (i.e., matters that will contribute to improved conduct, supervision, or management of the agency's functions or activities), to Federal agency and non-Federal agency participants, rather than a routine business meeting primarily involving day-to-day agency operations and concerns. **"Meeting"** includes other designations, such as a conference, congress, convention, forum, seminar, symposium, training for grantees or contractors, and workshop. See 5 U.S.C. § 4110 (1994).

"Continental Breakfast," means a light breakfast that may include a selection of coffees, teas, juices, fruits, and assorted pastries. It is allowable provided several hours of substantive material directly follows the continental breakfast. Grant recipients are reminded that the least expensive of the available selections should be chosen.

"Federal agency" means an Executive department, an independent establishment, a Government corporation, the Library of Congress, the Government Printing Office, and the Government of the District of Columbia. See 5 U.S.C. § 4101 (1994).

"Federal contractor" is a person or entity that contracts with the Federal Government to provide supplies, services, or experimental, developmental, or research work. Entities may include commercial organizations, educational institutions, construction and architect-engineer companies, State and local governments, and non-profit organizations. See 48 C.F.R. §§ 31.103-105, 31.107-108 (1995).

"Federal employees" are those persons employed in or under an agency of the United States Federal Government or the District of Columbia. See 5 U.S.C. § 4101 (1994).

"Federal grantee" means the component of a State, local, or federally-recognized Indian tribal government, educational institution, hospital, or a for-profit or non-profit organization which is responsible for the performance or administration of all or some part of a federal award. See OMB Circular No. A-87, Attachment A; OMB Circular No. A-110, Attachment A.

"Focus group," for purposes of this Policy, means a gathering of Federal government employees to discuss results and improvements of programs in the field. The focus group should follow a prepared agenda, be lead by an expert(s) in the subject matter, and serve to educate the Federal employees.

"Food" and/or **"beverages"** retain their common meanings. Food or beverages are considered in the context of formal meals and in the context of refreshments served at short, intermittent breaks during an activity. Beverages do not include alcoholic beverages.

"Formal agenda," provides a list of all activities that shall occur during the event, using an hour by hour time line. It must specifically include the times during the event when food and beverages will be provided.

"Incidental," for purposes of this Policy, means relating to a formal event where full participation by participants mandates the provision of food and beverages.

"Reasonable," as it applies to cost of food or beverages means those costs which a prudent person would have incurred under the circumstances prevailing at the time the decision to incur the cost was made. Costs to consider when making judgements about reasonableness include the cost of food and beverage, total cost of the event and costs incurred relative to costs in the geographical area.

"Reception," as it applies to this Policy, means an informal gathering which is not mandatory for all event participants to obtain necessary information. Indicators of a reception include a cash bar, inadequate seating for the entire group, food items from a reception menu (such as finger foods) and a longer break (than utilized throughout the day) between the substantive meetings and the reception. Receptions are expressly prohibited and are considered to be an unallowable cost with Federal funds.

"Working dinner," as it relates to this Policy means a formal and mandatory dinner necessary for all participants to have full participation in the conference or event. A working dinner must include a formal agenda including a program or speakers that will impart necessary information important for full understanding of the subject matter of the conference. There should be several hours of informative sessions providing substantive information scheduled both before and after a working dinner. Indicators of a working dinner include seating for all participants. A cash bar is expressly prohibited.

"Working lunch," for purposes of this Policy is a formal and mandatory lunch necessary for all participants to have full participation in the conference or event. A working lunch must include a formal agenda including a program or speakers that will impart necessary information important for full understanding of the subject matter of the conference. There should be several hours of informative sessions providing substantive information scheduled both before and after a working lunch (exhibits are not included). Indicators of a working lunch include seating for all participants. A cash bar is expressly prohibited.

3.0 DETERMINING ALLOWABLE COSTS OF FOOD AND BEVERAGES

There are two steps that must be taken to determine allowable costs associated with food and beverages.

Step 1: Three questions must be addressed when determining whether Federal funds can be used to provide food or beverages:

1. Who is the entity that seeks to provide the food and/or beverages?
 - Federal grantee

- Federal contractor
 - Non-federal entity
2. To whom will the food and/or beverages be provided?
- Federal agency (OJP) employees only
 - Employees of the Federal grantee or contractor
 - General public or employees of other Federal agencies
 - A mixed group consisting of OJP employees and Federal grantees, OJP employees and Federal contractors, or OJP employees and employees of other Federal agencies or the general public
3. Under what conditions will the food and beverages be provided?

Step 2: Apply the appropriate test to the situation in which funds are used to provide food and beverages:

A. Federal Grantee or Contractor

A Federal grantee or a contractor may provide food and beverages pursuant to program guidelines as long as:

1. The food and beverages provided are incidental to a work-related event; and
2. The costs of the food and beverages are considered reasonable; and
3. Food and beverages are not directly related to amusement and/or social events.

NOTES: Food and beverage costs for events within events may be unallowable. For example:

UNALLOWABLE

Event A includes 200 participants and food and beverages are requested for event B, which directly relates to event A, but includes only a subset of the 200 participants. Food and beverage costs at event B are unallowable since attendance at the event is not mandatory for all participants (200).

ALLOWABLE

If the purpose of event B is to discuss or work on topics unrelated to event A, food and beverage costs may be allowable for event B as a separate and independent event. A grantee or contractor should maintain separate documentation relating to event B.

B. Federal Agency

B.1 *For a Federal agency to provide food or beverages at a Federal*

employee training session,² a Federal agency must meet the following requirements:

1. The training must be a training program under 5 U.S.C. § 4109 as defined by the Government Employees Training Act at 5 U.S.C. § 4101(4); and
2. The agency determines that providing meals is necessary to achieve the objectives of the training program, that is, that the food is necessary in order for the employees to obtain the full benefit of the training.

B.2 *For a Federal agency to provide food or beverages at a Federal meeting or conference, a Federal agency must meet the following requirements:*

1. The food or beverage is part of a formal meeting or conference under 5 U.S.C. § 4110; and
2. The food and beverages provided are incidental to the meeting or conference; and
3. The food and beverages must be necessary to the Federal employee's full participation in the meeting or conference; and
4. The employee is not free to take his or her meals elsewhere without being absent from essential discussions, lectures, or speeches concerning the purpose of the meeting or conference.

B.3 *For a Federal agency to provide food or beverages at a Federal employee awards ceremony, a Federal agency must meet the following requirements:*

1. Recognition for the award is to an employee who meets general criteria specified in the Government Employees' Incentive Awards Act; and
2. The recognition is at some type of ceremonial function; and
3. The food and beverages will materially enhance the effectiveness of the ceremony and the cost of such items is considered reasonable.

B.4 *For a Federal agency to provide food or beverages at a Federal employee retreat, a Federal agency must meet the following requirement:*

The employee is in travel status, *i.e.*, the employee is outside his or her official duty station and is entitled to per diem. The costs of full meals should be deducted from the per diem.

² For training of grantees or contractors, please refer to the test for meetings or conferences.

4.0 Use of Funds for Food or Beverages

4.1 Federal Agency's Use of Funds for Food or Beverages

As a general rule, Federal agencies may not use Federal funds to provide food or beverages to Federal employees at their official duty stations. Such expenses are considered personal expenses. An employee is expected to bear these expenses from his or her salary; such expenses are not allowed under 5 U.S.C. § 5536, which prohibits an employee from receiving pay or allowances in addition to that fixed by law.

4.2 Exceptions to Federal Agency Use of Funds for Food or Beverages

A. Specifically Appropriated Funds

An agency may use funds to cover the costs of food or beverages for employees when Congress has appropriated funds specifically for such purposes. A common example of such funds is "official reception and representation" (OR&R) funds. In addition to including a specific amount of funds for OR&R in certain appropriations accounts, Congress has provided the Justice Department with general authority to use a specific amount from any of its various appropriation accounts for official reception and representation expenses. See Departments of Justice and Related Agencies Appropriation Act of 1994, Pub. L. No. 103-121, § 101, 107 Stat. 1163 (1993). Decisions to use these funds must be made by the head of the agency.

B. Statutory Exceptions

Congress has provided agencies the statutory authority to use funds not specifically appropriated for food to cover the cost of food or beverages in the following limited circumstances:

1. Training Expenses

Under the Federal Employees Training Act, 5 U.S.C. § 4109, OJP may pay for, or reimburse an employee for, food and beverages that are necessary to the achievement of the training objectives. Food and beverages may be provided to both Federal employees and non-Federal speakers who appear at the training session. See 48 Comp. Gen. 185 (1986).

There are two factors in determining whether Federal funds may be used for food or beverages under 5 U.S.C. § 4109. First, the event, meeting, seminar, symposium, etc. at which the food or beverages are offered must satisfy the definition of "training" in 5 U.S.C. § 4101(4) and as set out in this Policy, 2.0 Definitions. The fact that a Federal agency characterizes a meeting as "training" does not authorize the payment of related expenses where the event is really no more than an internal management meeting or staff working session.

Second, the Federal agency must show that the food or beverages were a necessary part of achieving the training objectives. "Necessary" food or beverages are those that the participants must be provided to further the goals of the training, such as food or beverages offered at lunches or dinners with speakers, or at breaks that are necessary to enable participants to be in attendance during all presentations of essential information. Food or beverages provided for the "pleasure" of those attending the training session are not legitimate training expenses.³

2. Meeting or Conference Expenses

Federal agencies may pay for food or beverages where Federal employees are attending meetings or conferences pursuant to 5 U.S.C. § 4110. The threshold test for determining whether an event is a "meeting or conference" is whether the food was provided at a formal event involving topical matters of general interest to Federal agency and non-Federal agency participants, rather than at a routine business meeting involving only internal management or day-to-day business concerns of the Federal agency.

When food and beverages are offered, the food or beverages must not only be ancillary to the functions or events carried on during the meal or break, but also ancillary to substantial functions taking place at the meeting or conference. These criteria are

³ For example, in a case involving the Pension Benefit Guaranty Corp. (PBGC), the Comptroller General found that although the PBGC was conducting a legitimate "training" session, the refreshments provided were not necessary for the employees to obtain the full benefit of the training, but rather were to maximize the time of the busy executives, to get the participants acquainted with each other, and to improve the on time attendance of the training participants. Therefore, the refreshments provided by the PBGC in conjunction with the training session were not permitted as training expenses. See Op. Comp. Gen. B-270199 (Aug. 6, 1996), 1996 WL 442084 (C.G.).

more easily met for externally organized or sponsored formal meetings or conferences than for agency sponsored meetings or conferences, where it may be difficult to distinguish between regular government matters and topical matters of general interest to non-governmental and governmental participants alike.

If the above tests are satisfied, the food and beverage expenses must also be necessary to the meeting or conference. In this context, "necessary" food or beverages are those that the participants must be provided to further the goals of the meeting or conference, as such food or beverages offered at lunches or dinners with speakers, or at breaks that are necessary to enable participants to attend all presentations of essential information. In any case, in order to use Federal funds, the food or beverages must be incidental to the meeting or conference, not vice versa.

3. Award Ceremony Expenses

Federal agencies may pay for food and beverages relating to Federal employee award ceremonies. Such food and beverages are considered "necessary expenses" that enhance the statutorily authorized honorary recognition of a Federal employee under the Government Employees' Incentive Awards Act, 5 U.S.C. §§ 4501-4503. If an agency determines that a reception with refreshments would materially enhance the effectiveness of its award ceremony, the cost of refreshments may be paid with Federal funds.

The basis for this exception is the statutory objective of encouraging employees to excel, and to this end, publicly recognizing their accomplishments. Therefore, food and non-alcoholic beverages that may be inappropriate in other contexts are considered appropriate as part of a ceremonial recognition of OJP employees who have qualified for awards under the criteria set out in 5 U.S.C. § 4503.

4. Federal Agency Employee Retreat Expenses

The Assistant Attorney General or an authorized agency official may determine that OJP employees should get away from the distractions and interruptions of their normal duty station environment to focus attention on management or programmatic issues. In such cases, food and beverages may be provided with Federal funds as long as (1) the retreat is held in a geographical location outside the employees' official duty station, and (2) the

participants' per diem allowances are reduced for the meals and incidental expenses in accordance with applicable regulations. See Op. Comp. Gen. No. B-244473 (January 13, 1992).

Retreats involve only Federal agency employees gathering for the purpose of discussing management or program issues of the agency. Because of its limited focus, a Federal agency employee retreat is not the same as a meeting or conference under 5 U.S.C. § 4110, nor is it a training as defined under 5 U.S.C. § 4101(4) and § 4109. Since a "retreat," by definition, takes place away from the official duty station, the authority to use agency appropriations for food and beverages stems from the travel statutes and the implementing Federal Travel Regulations. Therefore, the Federal agency cannot provide food or beverages to its employees during retreats within their official duty station.

5.0 Federal Grantee's Use of Funds for Food or Beverages

Once funds are in the grantee's hand, the restrictions on their use are governed by the "cost principles" of the Office of Management and Budget (OMB). Cost principles are the Federal rules that determine the reimbursability of grantee expenses. Generally, allowable costs include reasonable costs incurred in activities designed to improve working conditions, improve employer-employee relations, improve employee morale, and improve employee performance. Costs that are not allowed by the cost principles are those directly related to the purchase of alcohol, or to entertainment, including amusement, diversions, or social activities.

Different classes of Federal grantees have different types of costs and follow different cost rules set out by the OMB. Specifically, State and local governments and their subgrantees are covered by the cost principles of OMB Circular A-87, non-profit organizations are covered by OMB Circular No. A-122, colleges and universities are covered by OMB Circular No. A-21, for-profit organizations are covered by OMB Circular No. A-110, and hospitals are covered by OMB Circular A-110 and 45 C.F.R. Part 74, App. E (1996).

The standard under which costs are considered "allowable costs" under the OMB cost principles is a "reasonable person" standard, specifically, those costs which a prudent person would have incurred under the circumstances prevailing at the time the decision to incur the cost was made. Also, considered in determining "reasonableness" is the extent to which the actions taken with respect to incurring the cost are consistent with established policies of the grantee and practices applicable to the grantee's work.

6.0 Federal Contractor's Use of Contract Funds for Food or Beverages

Federal contractors follow rules under the Federal Acquisition Regulation (FAR), 48 C.F.R. §§ 31.000-31.703 (1995), that are analogous to those set out by the OMB for grantees. Commercial contractors are given discretion in their use of funds by being allowed to charge as

"costs," reasonable aggregate costs incurred in activities designed to improve working conditions, improve employer-employee relations, improve employee morale, and improve employee performance. Costs that are not allowed by the regulations are those directly related to the purchase of alcohol, or to entertainment, including amusement, diversions, or social activities.

NOTES:

Anyone under per diem allowances or reimbursements who is attending events at which food and beverages are provided must deduct the cost of any full meals (ie. lunch, dinner) provided from his or her per diem allowances.

Grant recipients are encouraged to accept reduced room rates from conference facilities instead of food, i.e. reception, foods, etc .

If you have any questions regarding how to interpret or apply this Policy, please contact the Office of the Comptroller Customer Service Center at 1-800-458-0786, or send inquiries via e-mail to "askoc@ojp.usdoj.gov".

Attachment A

Examples of Whether Funds May be Used to Provide Food and Beverages

CONFERENCES AND MEETINGS:

Example #1 OJP sponsors an all-day event at the L'Enfant Plaza Hotel that includes a luncheon and breaks at which food and beverages are offered. Federal agency employees as well as non-agency persons are invited, and various policy topics are discussed.

Step 1: Q = Who is the entity providing the food and beverage?
A = Federal agency

Q = To whom will the food and beverages be provided?
A = Mixed group of Federal agency employees and non-agency participants

Q = Under what conditions will the food and beverages be provided?
A = Conference or meeting

Step 2: Apply the test for a Federal agency providing food or beverages at a conference or meeting.

Q = Are the costs of the food and beverages reasonable?
A = We will assume the costs are reasonable

Q = Are the food and beverages part of a formal meeting or conference that is concerned with the functions or activities for which the appropriation is made or that will contribute to improved conduct, supervision, or management of the agency's functions or activities?
A = Yes

Q = Are the food and beverages incidental to the conference or meeting and necessary to the employees' full participation in the conference or meeting?
A = Yes

Q = If an employee does not participate in the food or beverages, will he or she be absent from essential discussions, lectures, or speeches concerning the purpose of the conference or meeting?
A = Yes - where a speaker provides essential information during the luncheon, and the food and beverages offered during the breaks are

necessary to enable participants to be in attendance during all presentations of essential information.

This scenario qualifies under the conference or meeting exception because the event is a formal conference or meeting consisting of several functions. Therefore, food and beverages may be provided with Federal funds.

Example #2 OJP sponsors an event for 3 hours between 11:00 a.m. and 2:00 p.m. in the OJP Ballroom during which a 30-minute working lunch is provided. The time between 11:00 a.m. and 2:00 p.m. is the only convenient meeting time for the participants. Non-Federal experts present expert opinions for the purpose of educating Federal agency employees about the ongoing successes and failures of agency programs. A formal agenda is distributed to all participants prior to the event, and participation by the Federal agency employees is required.

Step 1: Q = Who is the entity providing the food and beverage?
A = Federal agency

Q = To whom will the food and beverages be provided?
A = Mixed group of Federal agency employees and non-agency participants

Q = Under what conditions will the food and beverages be provided?
A = Conference or meeting

Step 2: Apply the test for a Federal agency providing food or beverages at a conference or meeting.

Q = Are the costs of the food and beverages reasonable?
A = We will assume the costs are reasonable

Q = Are the food and beverages part of a formal meeting or conference that is concerned with the functions or activities for which the appropriation is made, or that will contribute to improved conduct, supervision, or management of the agency's functions or activities?
A = Yes - the lunch is incidental to an event at which Federal agency employees are instructed by an expert on how to improve ongoing agency programs.

Q = Are the food and beverages incidental to the conference or meeting and necessary to the employees' full participation in the conference or

meeting?

A = Yes

Q = If an employee does not participate in the meal, will he or she be absent from essential discussions, lectures, or speeches concerning the purpose of the conference or meeting?

A = Yes

This scenario qualifies under the conference or meeting exception where the event consists of a program of education and where the luncheon is incidental and necessary to the objectives of the event. Therefore, food and beverages may be provided with Federal funds.

Example #3 OJP sponsors an event for 1 hour between 12:00 p.m. and 1:00 p.m. at the L'Enfant Plaza Hotel during which a working lunch is provided. The hour between 12:00 p.m. and 1:00 p.m. is the only convenient time for the participants. Federal agency employees, as well as non-agency persons are invited, and various policy topics are discussed over lunch. An agenda is distributed to the participants prior to the event. There is no discussion before the lunch, and at the conclusion of the meal, the group disburses.

Step 1: Q = Who is the entity providing the food and beverage?

A = Federal agency

Q = To whom will the food and beverages be provided?

A = Mixed group of Federal agency employees and non-agency participants

Q = Under what conditions will the food and beverages be provided?

A = Conference or meeting

Step 2: Apply the test for a Federal agency providing food or beverages at a conference or meeting.

Q = Are the costs of the food and beverages reasonable?

A = We will assume the costs are reasonable

Q = Are the food and beverages part of a formal meeting or conference that is concerned with the functions or activities for which the appropriation is made or that will contribute to improved conduct, supervision, or management of the agency's functions or activities?

A = Yes

Q = Are the food and beverages incidental to the conference or meeting and necessary to the employees' full participation in the conference or meeting?

A = No - there is no other substantial function at this event aside from the luncheon. The employees are free to take their lunch before or after the hour long event.

Q = If an employee does not participate in the food or beverages, will he or she be absent from essential discussions, lectures, or speeches concerning the purpose of the conference or meeting?

A = Yes - where a speaker provides essential information during the luncheon

This scenario does not qualify under the conference or meeting exception because the meeting is essentially a "working lunch" with no additional functions, before or after the meal, at which necessary information is provided. Therefore, food and beverages cannot be provided with Federal funds.

Example #4 A Federal grantee/contractor sponsors an event at the L'Enfant Plaza Hotel to discuss policy topics. The event includes a working lunch with a speaker and breaks at which food and beverages are offered. Federal agency employees, as well as employees of the Federal grantee/contractor and non-agency persons are invited.

Step 1: Q = Who is the entity providing the food and beverage?
A = Federal grantee/contractor

Q = To whom will the food and beverages be provided?
A = Federal agency employees, Federal grantee/contractor employees, and others

Q = Under what conditions will the food and beverages be provided?
A = Conference or meeting

Step 2: Apply the test for a Federal grantee/contractor providing food or beverages at a conference or meeting.

Q = Are the food and beverages provided incidental to a work-related event?

A = Yes

Q = Are the costs of the food and beverages reasonable?

A = We will assume the costs are reasonable

Q = Are the food and beverages incidental to the conference or meeting and not directly related to amusement and/or social events?

A = Yes

This scenario meets all components of the test; therefore, food and beverages may be provided with Federal grantee/contractor funds.

Example #5 A Federal grantee/contractor offers a "hospitality suite" the night before its conference at the L'Enfant Plaza Hotel. Federal agency employees, as well as employees of the Federal grantee/contractor and non-agency persons are invited.

Step 1: Q = Who is the entity providing the food and beverage?

A = Federal grantee/contractor

Q = To whom will the food and beverages be provided?

A = Federal agency employees, Federal grantee/contractor employees, and others

Q = Under what conditions will the food and beverages be provided?

A = Conference or meeting

Step 2: Apply the test for a Federal grantee/contractor providing food or beverages at a conference or meeting.

Q = Are the food and beverages provided incidental to a work-related event?

A = Yes

Q = Are the costs of the food and beverages reasonable?

A = We will assume the costs are reasonable

Q = Are the food and beverages incidental to the conference or meeting and not directly related to amusement and/or social events?

A = No

This scenario fails the test because food and beverages must not be directly related to amusement or social events. Although the conference is work-related, the hospitality suite is purely a "social event." Therefore, food and beverages may not be provided with Federal grantee/contractor funds.

Example #6 OJP sponsors an all-day event at the L'Enfant Plaza Hotel. Federal agency employees as well as non-agency persons are invited, and various policy topics are discussed. Time is allotted at the end of the day for a networking reception during which food and beverages are offered.

Step 1: Q = Who is the entity providing the food and beverage?
A = Federal agency

Q = To whom will the food and beverages be provided?
A = Mixed group of Federal agency employees and non-agency participants

Q = Under what conditions will the food and beverages be provided?
A = Conference or meeting

Step 2: Apply the test for a Federal agency providing food or beverages at a conference or meeting.

Q = Are the costs of the food and beverages reasonable?
A = We will assume the costs are reasonable

Q = Are food and beverages incidental to part of a formal meeting or conference that is concerned with the functions or activities for which the appropriation is made or that will contribute to improved conduct, supervision, or management of the agency's functions or activities?
A = Yes

Q = Are the food and beverages incidental to the conference or meeting and necessary to the employees' full participation in the conference or meeting?
A = No

Q = If an employee does not participate in the food or beverages, will he or she be absent from essential discussions, lectures, or speeches concerning the purpose of the conference or meeting?
A = No. Although essential information is being offered during the day, it is not being offered during the networking reception. If an employee misses the networking reception, he or she will not miss information that was essential to the conference or meeting.

This scenario does not qualify under the conference or meeting exception

because the employee will not miss essential information if he or she does not participate in the networking reception. Therefore, the food and beverages cannot be provided with Federal funds. NOTE: Food and beverages may be provided at other times during the conference or meeting if the proper tests are met. Please refer to Example #1.

Example #7 Federal grantee/contractor sponsors an all-day event at the L'Enfant Plaza Hotel. Federal agency employees as well as Federal grantee/contractor employees and non-agency persons are invited, and various policy topics are discussed. Time is allotted at the end of the day for a networking reception during which food and beverages are offered.

Step 1: Q = Who is the entity providing the food and beverage?

A = Federal grantee/contractor

Q = To whom will the food and beverages be provided?

A = Mixed group of Federal agency employees and non-agency participants

Q = Under what conditions will the food and beverages be provided?

A = Conference or meeting

Step 2: Apply the test for a Federal grantee/contractor providing food or beverages at a conference or meeting.

Q = Are food and beverages incidental to a work-related event?

A = Yes

Q = Are the costs of the food and beverages reasonable?

A = We will assume the costs are reasonable

Q = Are the food and beverages incidental to the conference or meeting and not directly related to amusement and/or social events?

A = No. Although essential information is being offered during the day, it is not being offered during the networking reception. The networking reception operates as a social function rather than a necessary work-related event.

This scenario does not qualify under the Federal grantee/contractor conference or meeting exception because the networking reception is essentially a social event. Therefore, the food and beverages **may not** be provided with Federal grantee/contractor funds, i.e., the refreshment expenses cannot be passed

through to the Federal grantee/contractor. The Federal grantee/contractor, however, may pay for food and beverages at the networking opportunity from its own profits. The food and beverages, in this case, raise ethical questions regarding the receipt by Federal employees of "gifts" from outside sources. Please consult your ethics manual in these situations.

Example #8 OJP sponsors a three-day event at the L'Enfant Plaza Hotel. Federal agency employees as well as non-agency persons are invited, and various policy topics are discussed. Registration is held on the first morning of the event at which food and beverages provided.

Step 1: Q = Who is the entity providing the food and beverage?
A = Federal agency

Q = To whom will the food and beverages be provided?
A = Mixed group of Federal agency employees and non-agency participants

Q = Under what conditions will the food and beverages be provided?
A = Conference or meeting

Step 2: Apply the test for a Federal agency providing food or beverages at a conference or meeting.

Q = Are the costs of the food and beverages reasonable?
A = We will assume the costs are reasonable

Q = Are food and beverages incidental to part of a formal meeting or conference that is concerned with the functions or activities for which the appropriation is made or that will contribute to improved conduct, supervision, or management of the agency's functions or activities?
A = Yes

Q = Are the food and beverages incidental to the conference or meeting and necessary to the employees' full participation in the conference or meeting?
A = No

Q = If an employee does not participate in the food or beverages, will he or she be absent from essential discussions, lectures, or speeches concerning the purpose of the conference or meeting?
A = No

This scenario does not qualify under the conference or meeting exception, because the employee will not miss essential information if he or she does not participate in the food and beverages provided at registration. Therefore, the food and beverages cannot be provided with Federal funds. [Please also refer to Example #8]

Example #9 A Federal grantee/contractor sponsors a three-day event at the L'Enfant Plaza Hotel. Federal agency employees as well as government contractor employees and non-agency persons are invited, and various policy topics are discussed. Registration is held on the first morning of the event at which food and beverages are provided.

Step 1: Q = Who is the entity providing the food and beverage?
A = Federal grantee/contractor

Q = To whom will the food and beverages be provided?
A = Mixed group of Federal agency employees and non-agency participants

Q = Under what conditions will the food and beverages be provided?
A = Conference or meeting

Step 2: Apply the test for a Federal grantee/contractor providing food or beverages at a conference or meeting.

Q = Are food and beverages incidental to a work-related event?
A = Yes

Q = Are the costs of the food and beverages reasonable?
A = We will assume the costs are reasonable

Q = Are the food and beverages incidental to the conference or meeting and not directly related to amusement and/or social events?
A = Yes

This scenario qualifies under the Federal grantee/contractor conference or meeting exception, because the costs are reasonable and the food and beverages are offered in conjunction with registration, which is a work-related event. Therefore, the food and beverages may be provided with Federal grantee/contractor funds.

Example #10 OJP sponsors a three-day event at the L'Enfant Plaza Hotel. Federal agency employees as well as non-agency persons are invited, and various policy topics are discussed. A mid-morning break with coffee and danishes is offered each morning after the conference sessions have begun.

Step 1: Q = Who is the entity providing the food and beverage?
A = Federal agency

Q = To whom will the food and beverages be provided?
A = Mixed group of Federal agency employees and non-agency participants

Q = Under what conditions will the food and beverages be provided?
A = Conference or meeting

Step 2: Apply the test for a Federal agency providing food or beverages at a conference or meeting.

Q = Are the costs of the food and beverages reasonable?
A = We will assume the costs are reasonable

Q = Are food and beverages incidental to part of a formal meeting or conference that is concerned with the functions or activities for which the appropriation is made or that will contribute to improved conduct, supervision, or management of the agency's functions or activities?
A = Yes

Q = Are the food and beverages incidental to the conference or meeting and necessary to the employees' full participation in the conference or meeting?
A = Yes

Q = If an employee does not participate in the food or beverages, will he or she be absent from essential discussions, lectures, or speeches concerning the purpose of the conference or meeting?
A = Yes

This scenario qualifies under the conference or meeting exception, because the employee will miss essential information if he or she does not participate in the short morning breaks, but rather leaves the conference area to obtain food or beverages. Therefore, the morning breaks may be provided with Federal funds.

RETREATS:

Example #11 OJP sponsors an all-day event at the Rockwood Manner in Potomac, Maryland that includes a working lunch and breaks at which food and beverages are offered. Only OJP employees are invited, and the topic of discussion is agency strategic planning and management.

Step 1: Q = Who is the entity providing the food and beverage?
A = Federal agency

Q = To whom will the food and beverages be provided?
A = Federal agency employees, exclusively

Q = Under what conditions will the food and beverages be provided?
A = Federal employee retreat within the official duty station of the employees. This event is not a conference or meeting because only Federal agency (OJP) employees are participating and because the topic involves policy and management issues of the agency.

Step 2: Apply the test for a Federal agency providing food or beverages at a Federal employee retreat.

Q = Are the costs of the food and beverages reasonable?
A = We will assume the costs are reasonable

Q = Are food and beverages incidental to part of a formal retreat that is concerned with the functions or activities for which the appropriation is made or that will contribute to improved conduct, supervision, or management of the agency's functions or activities?
A = Yes

Q = Are the food and beverages incidental to the retreat and necessary to the employees' full participation in the retreat?
A = Yes

Q = If an employee does not participate in the food or beverages, will he or she be absent from essential discussions, lectures, or speeches concerning the purpose of the retreat?
A = Yes - where a speaker provides essential information during the luncheon, and the food and beverages offered during the breaks are necessary to enable participants to be in attendance during all presentations of essential information.

Q = Is the retreat outside the employees' official duty station?

A = No - the Rockwood Manner is within the District of Columbia official duty station.

This retreat is held in Montgomery County, which is within the employees' official duty station. Therefore, food and beverages cannot be provided with Federal funds.

Example #12 OJP sponsors an all-day event at a location in Annapolis, Maryland. The event includes a working lunch and breaks at which food and beverages are offered. Only OJP employees are invited, and the topic of discussion is agency strategic planning and management.

Step 1: Q = Who is the entity providing the food and beverage?

A = Federal agency

Q = To whom will the food and beverages be provided?

A = Federal agency employees, exclusively

Q = Under what conditions will the food and beverages be provided?

A = Federal employee retreat within the official duty station of the employees. This event is not a conference or meeting because only Federal agency (OJP) employees are participating and because the topic involves policy and management issues of the agency.

Step 2: Apply the test for a Federal agency providing food or beverages at a Federal employee retreat.

Q = Are the costs of the food and beverages reasonable?

A = We will assume the costs are reasonable

Q = Are food and beverages incidental to part of a formal retreat that is concerned with the functions or activities for which the appropriation is made or that will contribute to improved conduct, supervision, or management of the agency's functions or activities?

A = Yes

Q = Are the food and beverages incidental to the retreat and necessary to the employees' full participation in the retreat?

A = Yes

Q = If an employee does not participate in the food or beverages, will

he or she be absent from essential discussions, lectures, or speeches concerning the purpose of the retreat?

A = Yes - where a speaker provides essential information during the luncheon, and the food and beverages offered during the breaks are necessary to enable participants to be in attendance during all presentations of essential information.

Q = Is the retreat outside the employees' official duty station?

A = Yes - the Annapolis area is not within the District of Columbia official duty station.

Because this retreat is held in Annapolis, which is not within the employees' official duty station, food and beverages may be provided with Federal funds. Anyone receiving per diem allowance or reimbursement, however, must deduct the cost of the lunch from his or her per diem allowance or reimbursement.

TRAINING

Example #13 OJP sponsors a training session to train OJP employees at the L'Enfant Plaza Hotel. The full day training session includes a working lunch and breaks at which food and beverages are offered.

Step 1: Q = Who is the entity providing the food and beverage?
A = Federal agency

Q = To whom will the food and beverages be provided?
A = Federal agency employees, exclusively

Q = Under what conditions will the food and beverages be provided?
A = Training session

Step 2: Apply the test for a Federal agency providing food or beverages at a Federal employee training session.

Q = Are the costs of the food and beverages reasonable?
A = We will assume the costs are reasonable

Q = Are the food and beverages part of a formal training session that is concerned with the functions or activities for which the appropriations is made, or that is for the purpose of providing education in a field that will improve individual and organizational performance and assist in achieving the agency's mission and performance goals?
A = Yes

Q = Are the food and beverages necessary to achieving the objectives of the training program, i.e., is the food necessary in order for the employees to obtain the full benefit of the training the employees' full participation in the training session?

A = Yes

Q = If an employee does not participate in the meal or break session, will he or she be absent from essential discussions, lectures, or speeches concerning the purpose of the training?

A = Yes - where a speaker provides essential information during the luncheon, and the food and beverages offered during the breaks are necessary to enable participants to be in attendance during all presentations of essential information.

This scenario meets all prongs of the test, therefore, food and beverages may be provided with Federal funds. Note: when an activity can be classified as a training session rather than a retreat, the inquiry concerning "official duty station" is not necessary.

Example #14 OJP sponsors an all-day event to train OJP employees and Federal grantee/contractor employees at the L'Enfant Plaza Hotel. The event includes a working lunch and breaks at which food and beverages are offered.

Step 1: Q = Who is the entity providing the food and beverage?

A = Federal agency

Q = To whom will the food and beverages be provided?

A = Federal agency employees and non-agency employees

Q = Under what conditions will the food and beverages be provided?
A = Meeting or conference. Note that this event is not a "training" session as defined under 5 U.S.C. § 4101. Because this is a formal event of interest to OJP and non-OJP participants, it qualifies as a meeting or conference. The meeting or conference test may be applied.

Step 2: Apply the test for a Federal agency providing food or beverages at a conference or meeting.

Q = Are the costs of the food and beverages reasonable?

A = We will assume the costs are reasonable

Q = Are the food and beverages incidental to part of a formal meeting

or conference that is concerned with the functions or activities for which the appropriation is made, or that will contribute to improved conduct, supervision, or management of the agency's functions or activities?

A = Yes

Q = Are the food and beverages incidental to the conference or meeting and necessary to the employees' full participation in the conference or meeting?

A = Yes

Q = If an employee does not participate in the food or beverages, will he or she be absent from essential discussions, lectures, or speeches concerning the purpose of the conference or meeting?

A = Yes - where a speaker provides essential information during the luncheon, and the food and beverages offered during the breaks are necessary to enable participants to be in attendance during all presentations of essential information.

This scenario meets all prongs of the test, therefore, food and beverages may be provided with Federal funds.

Example #15 A Federal grantee/contractor sponsors a training session for its own employees, Federal agency employees and non-agency participants at the L'Enfant Plaza Hotel. The training session includes a working lunch and breaks at which food and beverages are offered.

Step 1: Q = Who is the entity providing the food and beverage?
A = Federal grantee/contractor

Q = To whom will the food and beverages be provided?
A = Mixed group of grantee/contractor employees, Federal agency employees and non-agency participants

Q = Under what conditions will the food and beverages be provided?
A = Training session

Step 2: Apply the test for a Federal grantee/contractor providing food or beverages at a training session.

Q = Are the food and beverages provided incidental to a work-related event?
A = Yes

Q = Are the costs of the food and beverages reasonable?

A = We will assume the costs are reasonable

Q = The food and beverages incidental to the training and not directly related to amusement and/or social events?

A = Yes

This scenario meets all components of the test, therefore, food and beverages may be provided with Federal grantee/contractor funds. Note: If some Federal agency employees are invited to attend this training, the presence of Federal employees does not prevent the Federal grantee/contractor from providing food and beverages under it's three-part test.