

ARS □ NIFA □ ERS □ NASS

Policy and Procedures

Title: Acceptance of Travel Funds from Non-Federal Sources

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This P&P states policy and procedures for authorizing the acceptance of funds for payment of travel expenses from non-Federal sources.

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1. Purpose

This P&P states policy and procedures for authorizing the acceptance of funds for payment of travel expenses from non-Federal sources.

2. Background

Federal Travel Regulation (FTR), Chapter 304, Part 1, incorporates authority under Title 31 U.S.C. 1353, under which agencies may accept payments from a non-Federal source, or authorize an employee to accept such payments on behalf of the agency in connection with the attendance of its employee (and/or the accompanying spouse of such employee when applicable) at a meeting or similar function.

3. Authorities

- Federal Travel Regulation (FTR), Chapter 304-1
- Public Laws 95-105 and 101-194
- 31 United States Code (U.S.C.) 1353

4. References

The Research, Education, and Economics Policy and Procedures 115.0, Administrative Delegations of Authority
Standards of Ethical Conduct, 5 Code of Federal Regulations (CFR) 2635

5. Glossary of Terms

AD-202. Travel Authorization/Advance.

“Appearance of a Conflict of Interest” is synonymous with the terms “favoritism” and “loss of impartiality”. It refers to the act of being unfairly partial and indulgent to some person or persons over others.

Approving Official – Travel Sponsored by a Foreign Organization. For the Agricultural Research Service (ARS), Economic Research Service (ERS) and the National Agricultural Statistics Service (NASS), the Agency Administrator approves travel sponsored by a **foreign** organization. For the National Institute of Food and Agriculture (NIFA), the Agency Director or Deputy Directors approve travel sponsored by a **foreign** organization.

Approving Official – Travel Sponsored by a Domestic Organization. The following officials approve travel sponsored by a **domestic** organization:

- **ARS:** Deputy Administrators, Director, Financial Management Division (FMD) for the Administrator, Area Directors
- **ERS:** Associate Administrator, Division Directors
- **NASS:** Associate Administrator and Deputy Administrators
- **NIFA:** Not applicable

Authorizing Official. Any employee with delegated authority to approve travel, as cited in P&P 115.0.

“Conflict of Interest” is an act affecting a personal financial interest and occurs when an employee personally and substantially acts in his or her official capacity on a particular matter which can directly benefit his or her financial interests. Conflict of interest statutes are contained in Title 18 U.S.C. § 201-209, 216.

Cooperative Agreement. A relationship between the agency and an eligible Federal or non-Federal entity where: (1) all parties involved have a mutual interest in the agreement’s objectives; (2) all parties agree to contribute resources to accomplish the research objectives; and (3) all parties participate in the cooperative work to be accomplished.

Employee. An appointed officer or employee of the United States Department of Agriculture (USDA) including special Government employees (collaborators, consultants and panel members). The term excludes independent contractors.

“Financial Interest” means interests owned by the employee, his/her spouse, dependent child, the employee’s general business partner, and an organization or entity for which the employee serves as officer, director, trustee, general partner or employee. It can include interests in stocks, bonds, partnership interests, fee and leasehold interests, mineral and other property rights, deeds of trusts and liens, and rights to purchase interests such as stock options or commodity futures. It does not include a future interest created by someone other than the employee, his/her spouse, or dependent child or any right as a beneficiary of an estate that has not been settled. The term does include service, with or without compensation, as an officer, director, trustee, general partner or employee of any person, including a nonprofit entity, whose financial interests are imputed to the employee.

FTR. Federal Travel Regulation.

“In-Kind Assistance” means goods, services, or other benefits (such as airline tickets, pre-payment of lodging, other travel related fees, or waiver of any fees that a non-Federal source normally collects from meeting attendees such as registration fees) provided directly to the traveler from a non-Federal source for travel, subsistence, and related expenses in lieu of funds paid to an agency.

Meeting or Similar function. In order to accept travel funds under this authority, the event must meet the definition of a “meeting or similar function”. The event must be 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 cosponsored by a non-Federal source. This term **does not** include a meeting or other event required to carry out an agency’s statutory or regulatory functions (i.e., a function that is essential to an agency’s mission) such as investigations, inspections, audits, site visits, collection of research data, 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. This authority also excludes travel for which specific provisions are made within cooperative agreements, and temporary duty assignments such as details and fellowships. A meeting or similar function includes but is not limited to the following:

- An event at which the employee will participate as a speaker or panel participant, focusing on his/her official duties or on the policies, programs or operations of the agency;
- A conference, convention, seminar, symposium or similar event where the primary purpose is to receive training other than promotional vendor training, or to present or exchange substantive information concerning a subject of mutual interest to a number of parties;
- 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 applicable standard of conduct regulations.

NOTE: This definition is not intended to encompass long-term temporary duty or training travel. It is intended that agencies will determine, on an individual case basis, the appropriate period for which travel payments may be accepted. As guidance in making such a determination, it would not be appropriate for an agency to accept payment for travel that exceeds 3 weeks' duration.

“Non-Federal Source” means a person or organization other than the Federal Government. The term includes any individual, private or commercial entity, non-profit organization or association of international or multinational organization (irrespective of whether an agency holds membership in the organization or association), foreign, state, or local Government and the Government of the District of Columbia.

Payments In-Kind Valuations A method used to calculate the dollar value of in-kind payments. For example:

- For conference, training, or similar fees: Report the amount waived or paid by the non-Federal source.
- For transportation and lodging expenses: Report the cost to the non-Federal source, or indicate the rate that would have been charged a similar non-Federal source, or cost of commercial transportation and maximum per diem rate allowable for that locality.

Refund Credit. An alternative procedure for financing travel. Under the “refund credit” concept expenses will initially be charged to the appropriate agency's operating budget account. After completion of the trip and payment of the travel voucher, the agency will request that the cooperator issue a check payable to the agency for the amount of travel expenses incurred.

Reviewing Official. For travel sponsored by foreign organizations:

- **ARS:** Deputy Administrators, Director FMD for the Administrator, Area Directors
- **ERS:** Associate Administrator, Division Directors
- **NASS:** Associate Administrator and Deputy Administrators
- **NIFA:** Assistant Directors.

U.S.C. United States Code

6. Policy

FTR, Chapter 304, Part 1, incorporates authority under Title 31U.S.C. 1353, under which agencies may accept travel expenses from non-Federal sources provided the value to the agency offsets any possible appearance problem that may attach to the acceptance. The approving official must be able to justify the need for participation in an event and the benefit gained by the agency. The agency official may find that, while acceptance from the non-Federal source is permissible, it is in the interest of the agency to qualify acceptance of the offered payment by, for example, authorizing attendance at only a portion of the event.

Acceptance of funds under a formal cooperative agreement is covered under other authorities. A cooperative agreement should be executed in accordance with REE policy.

Prior approvals will be substantiated through proper documentation. Documentation for each trip will include:

- (1) a written offer;
- (2) a written request and justification statement for acceptance of travel funds from the non-Federal source (see Exhibit 1 for a sample justification form), agencies using the Foreign Travel Information System (FTIS) may use this system to enter justification information on foreign travel;
- (3) a completed AD-1101-SEB, Approval and Report of Travel Funds Received from Non-Federal Sources (see Exhibit 2), documenting that a conflict of interest analysis has been conducted; and
- (4) a letter of acceptance (see Exhibit 3 for a sample letter of acceptance) which documents the cooperative nature of the arrangement, including:
A clear understanding of the mutual benefit and interest between the agency and the cooperator (merely stating that a mutual benefit exists is not sufficient); and
Establishing the resource contribution by both parties; e.g., the agency will finance the individual's salary while the cooperator will finance all or a portion of the related travel.

Employees should check with their agency regarding required timelines for prior approval.

For NIFA only

Provisions of this policy will be limited to acceptance of travel funds from **foreign sources only**.

7. Conflict-of-Interest Analysis

A conflict of interest analysis (using Form AD-1101-SEB found in Exhibit 2) must be conducted prior to the agency's accepting funds from a non-Federal source. Payment from a non-Federal source must not be accepted if a determination is made that acceptance would cause the public, with knowledge of all the facts, to question the integrity of USDA programs or operations.

The following criteria must be considered and disclosed in the conflict of interest analysis:

- The identity of the non-Federal source;
- The purpose of the meeting or similar function;
- The identity of other expected participants;
- The nature and sensitivity of any matter pending at USDA affecting the interests of the Non-Federal source;

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

8. Methods of Acceptance

The following methods of acceptance are applicable regardless of **for profit** or **not for profit** designation of the non-Federal source in the order of preference:

- In kind; or
- Refund credit to the REE accounting code(s) initially charged.

NOTE: Under no circumstances should REE employees accept cash or a negotiable instrument as reimbursement for travel or other out-of-pocket expenses.

9. Acceptance of Funds for Accompanying Spouse

In order for the agency to accept payment for an accompanying spouse, one of the following conditions must be met:

- The presence of the spouse will support agency mission or will substantially assist the employee in carrying out his/her official duties.
- The spouse is invited to attend an awards ceremony where the employee will receive an award or honorary degree.
- The spouse will participate in substantive programs related to USDA policies, programs, or operations.

Merely being invited to attend is not a sufficient justification for the acceptance of funds for the spouse to accompany the employee, nor is the fact that other spouses will attend the event.

10. Acceptance of Additional In-Kind Expenses and Post-Approval of Acceptance of Funds

An offer to pay additional travel expenses while in travel status may occasionally occur. If your agency has already authorized acceptance of payment for some of your travel expenses for a meeting or similar function from a non-Federal source, you may accept on behalf of your agency payment for any of your additional travel expenses from the same non-Federal source as long as: 1) the expenses paid or provided are comparable in value to those offered to or purchased by other similarly situated meeting attendees; and 2) your agency did not decline to accept payment for those particular expenses in advance of your travel.

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

- You may accept, on behalf of your agency only the types of travel expenses that are authorized by your travel authorization (i.e., meals, lodging, transportation, but not recreation or other personal expenses); and
- Only travel expenses that are within the maximum allowances stated on your travel authorization (e.g., if your travel authorization states that you are authorized to incur lodging expenses up to \$100 per night, you may not accept payment from the Non-Federal source for a \$200 per night hotel room).

IMPORTANT: You must then request your agency's authorization for acceptance from the non-Federal source within 7 working days after your trip ends and if your agency does not authorize acceptance from the non-Federal source, your agency must either:

- Reimburse the non-Federal source for the reasonable approximation of the market value of the benefit provided, not to exceed the maximum allowance stated on your travel authorization; or
- Require you to reimburse the non-Federal source that amount and allow you to claim that amount on your travel claim for the trip

11. Penalties

The offer of payment of non-Federal travel assistance must not be solicited by the agency or employee/traveler. The gift of payment of travel support may only be received by the agency. **Under no circumstances should the traveler accept cash or a negotiable instrument to reimburse him or herself for out-of-pocket expenses.** If an employee accepts payment from a non-Federal source in violation of these regulations, the employee may be required, in addition to other penalty provided by law and applicable regulation, to pay the general fund of the Treasury, an amount equal to any payment accepted. If these regulations are violated, an employee may not be entitled to any reimbursement from the Government for travel expenses that the payment was intended to cover. Employees may also be subject to appropriate disciplinary action.

12. Procedures

Traveler

Prior to travel

- Obtain a copy of the written invitation/offer.
- Complete form AD-1101-SEB, Approval and Report of Travel Funds Received from Non-Federal sources; sign/date as Traveler (original signatures are required). You must obtain your supervisor's approval prior to submission. The AD-1101-SEB can be found at: <http://www.usda-ethics.net/science/forms/index.htm>
- Prepare a draft acceptance letter (example provided as part of form AD-1101-SEB). This letter should not be signed or dated until after all appropriate approvals/reviews have been completed.
- Submit a copy of the written invitation, AD-1101-SEB and draft letter of acceptance to your ethics official for review.
- Once the conflict of interest analysis has been completed by an ethics official, the travel request will be returned to the traveler. The Approving Official may then sign the letter of acceptance and return it to the traveler to mail to the sponsor of the travel.

Reviewing Officials for Travel Sponsored by Foreign Organizations (all REE agencies); and Approving Officials for Travel Sponsored by Domestic Organizations (ARS, ERS, and NASS only)

- Review the request, foreign travel justification, Form AD-1101-SEB, and letter of offer from the non-Federal source. Ensure that the reasons given for use of travel funds from the non-Federal source meet the requirements of the conflict of interest analysis and are in accordance with agency policy.

- If the offer to pay travel expenses is from a **foreign organization**, initial the letter of acceptance and forward the folder with all applicable documentation to the agency Administrator (ARS, ERS, and NASS)/Director or Deputy Director (NIFA) for final approval.

Approving Official

- Review all documentation related to the acceptance of travel funds from a Non-Federal source and approve or disapprove.
- If approved, sign the letter of acceptance addressed to the non-Federal source and return a signed copy of the letter of acceptance to the traveler. All applicable documentation should be retained by the approving official.
- If disapproved, return the folder with all contents to the Reviewing Official marked “Disapproved”.

For NIFA only

- In-kind is the preferred method of acceptance.
- When the “refund credit” method is used (See Section 3, Glossary of Terms, for definition), the travel expenses will be charged to the appropriate NIFA Assistant Director’s operating budget account. After completion of the trip and payment of the travel voucher, the Assistant Director will request that the foreign cooperator issue a check payable to NIFA for the amount of travel expenses incurred.
- NIFA Assistant Directors will provide FMD, Fiscal Operations Branch (FOB) with the cooperator’s check and a copy of the paid travel voucher. FOB will effect the refund credit to the NIFA Deputy Administrator’s operating account.

13. Semi-Annual Reporting Requirements

FTR Chapter 304-1.9 requires submission of semi-annual reports on each event where acceptance of travel funds from a non-Federal organization is \$250 or more.

Each REE Agency/ARS Area is responsible for maintaining form OGE-1353, Semiannual Expense Report for Non-Federally Funded Travel. Reporting periods of travel cover October 1 – March 31 (report due May 31) and April 1 - September 30 (report due November 30). These reports are submitted to the USDA Office of Ethics, Science Ethics Branch (SEB) semiannually. The SEB will submit these reports to the Office of Government Ethics (OGE) for review. This information is available to the public and it is each agency's responsibility to file accurate and complete reports and to conduct a conflict of interest analysis. Each REE Agency/ARS Area is responsible for maintaining statements, forms (AD-1101-SEB), and other records used to seek prior approval for acceptance of travel funds for one year after the OGE-1353 has been submitted to OGE.

14. Summary of Responsibilities

ARS, ERS, and NASS Administrators/NIFA Director/Deputy Directors

- Approve or disapprove acceptance of travel or expenses for travel from foreign organizations. Prior to the Administrator’s (ARS, ERS, NASS)/Director’s or Deputy Director’s (NIFA) approval/disapproval, a designated reviewing official should review the

traveler's request, justification, letter of offer, and initial the letter of acceptance. Once the approval of travel funds from the foreign organization is obtained from the Administrator (ARS, ERS, and NASS)/Director or Deputy Director (NIFA), a delegated authorizing official may stamp the electronic authorization approved.

Reviewing Officials for Travel Sponsored by Foreign Organizations; and Approving Officials for Travel Sponsored by Domestic Organizations

ARS: Deputy Administrators, Director FMD for the Administrator, Area Directors

ERS: Associate Administrator, Division Directors

NASS: Associate Administrator and Deputy Administrators

NIFA: Assistant Directors and Deputy Directors

The above officials will:

- Determine if proposed arrangements with non-Federal sources are in the interest of achieving agency program objectives. Ensure adequate consideration and review of each offer and acceptance and document each determination.
- Ensure that the reasons given for use of travel funds from outside sources meet the requirements of the conflict of interest analysis and are in accordance with agency policy.

/s/
MICHELLE D. GARNER
Acting Director
Financial Management Division

__June 15, 2012_____
Date

Exhibit 1: Sample Foreign Travel Justification Form

FOREIGN TRAVEL JUSTIFICATION
United States Department of Agriculture
[Agency Name]

I. BACKGROUND

Employee:
Title:
Date(s) of Travel:
Destination(s):
Estimated Cost to Agency:

II. JUSTIFICATION

The following questions must be answered as part of the approval review process. Attach additional sheets if necessary.

1. How will the trip assist USDA in furthering the President's programs and priorities?
2. How will the trip contribute to the USDA mission?
3. Will the result of the trip justify the considerable expense of foreign travel? (For example, will the trip have a significant effect on the agency programs?)
4. How many other USDA staff are you aware of who will be traveling and attending the same event, and why are they needed?
5. How will the traveler ensure the effective management of the mission area or agency should the travel request be approved (who is covering for you while you are gone)?
6. What is your role at the event(s)?

III. APPROVAL

Signature – Title

Date

Signature – Title

Date

Exhibit 2: Form AD-1101-SEB, Approval and Report of Travel Funds Received from Non-Federal Sources.

USDA OFFICE OF ETHICS – SCIENCE ETHICS BRANCH APPROVAL AND REPORT OF TRAVEL FUNDS RECEIVED FROM NON-FEDERAL SOURCES		
This form must be completed in its entirety or it will be returned. 31 U.S.C.1353, subsequently printed in Chapter 304, Part 1, of the Federal Travel Regulations, governs the acceptance of payment for travel, subsistence, and related expenses from a non-Federal source, in connection with the attendance of an employee and/or accompanying spouse, at certain meetings and similar functions. Agencies are also required to submit semiannual reports of payments which total more than \$250 per event, and which have been accepted under this authority. The report is based on when payment is received rather than when travel is performed. All offices must maintain form OGE-1353 and submit these forms to the USDA Office of Ethics for the periods of October 1 through March 31 (due May 15th) and April 1 through September 30 (due November 15th). Offices must maintain records for six years. All requests should include: 1) letter of invitation; 2) conflict of interest analysis and 3) draft letter of acceptance.		
EMPLOYEE		
Name: E-mail:	Position Title:	Agency/Duty Station/Location:
Telephone #:	Beginning Date of Travel:	Ending Date of Travel:
SPOUSE (If applicable)		
Name:	Reason for Spouse's Travel:	
Beginning Date of Travel:	Ending Date of Travel:	
EVENT INFORMATION		
<input type="checkbox"/> Meeting <input type="checkbox"/> Speaking Engagement <input type="checkbox"/> Conference <input type="checkbox"/> Seminar		
Location of Event (City/State & Country):	Title of Event: Date(s) of Event:	
Name of Event Sponsor:	Sponsor's Address:	
ACCEPTANCE INFORMATION		
What expenses are being paid for by the non-Federal source? <input type="checkbox"/> Common Carrier <input type="checkbox"/> Lodging <input type="checkbox"/> Meals <input type="checkbox"/> Other (Itemize)		
Value (in U.S. Dollars) received from non-Federal source: <input type="checkbox"/> In-Kind \$ _____ <input type="checkbox"/> Paid to Agency \$ _____ <input type="checkbox"/> Other (Explain) \$ _____		
Non-Federal Source Assisting with Travel (include address):		
CERTIFICATION (Original signatures are required)		
<i>I certify that the information provided on this form and all attached documents are true, complete, correct, and comply with the guidelines of 41 CFR Part 304-1, Federal Travel Regulations, Acceptance of Payment From a Non-Federal Source, for travel expenses, to the best of my knowledge.</i>		
Traveler's Signature _____		Date _____
<i>I certify that I approved acceptance of the above travel, subsistence and related expenses from the non-Federal source in advance of the proposed travel being accomplished by the employee and after having reviewed the conflict of interest analysis on the reverse of this sheet.</i>		
Approving Official's Signature _____		Date _____
Printed Name _____ E-mail address _____ Phone # _____		

Traveler's Name: _____

CONFLICT OF INTEREST ANALYSIS UNDER 41 C.F.R. § 304-1.5

ACCEPTANCE OF PAYMENT FROM A NON-FEDERAL SOURCE FOR TRAVEL EXPENSES requires in all cases that a conflict of interest analysis be performed by an authorized agency official. The "authorized official" is a designated Agency Ethics Advisor. To ease administration of the requirement for a conflict of interest analysis, this outline tracks the elements of the regulation. The analysis should be accomplished on this page. **A letter of acceptance may not be signed/dated until the conflict of interest analysis is complete.**

IMPORTANT: Payment from a non-Federal source will not be accepted if the authorized agency 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 agency programs or operations.

PART I: TO BE COMPLETED BY THE TRAVELER

THE TRAVELER MUST PROVIDE INFORMATION FOR ITEMS #1-6 and Analysis/explanation section. Additional sheets may be attached, if needed. In making this determination, an authorized agency ethics 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 agency affecting the interests of the non-Federal source:
- (5) The significance of the employee's role in any such matter specified in (4) above:
- (6) The monetary value and character of the travel benefits offered by the non-Federal source:

Analysis: Would acceptance of the travel cause a reasonable person with knowledge of all the facts relevant to a particular case to question the integrity of agency programs or operations? **Yes** **No**

Explain your response to the above question:

PART 2: TO BE COMPLETED BY THE AGENCY ETHICS OFFICIAL

Recommendation of Agency Ethics Official: **Accept** **Do Not Accept**

NOTE: The authorized agency ethics official may find that, while acceptance from the non-Federal source is permissible, it is in the interest of the agency 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. The qualifications on acceptance, if any, are:

Signature _____

Date _____

APPROVAL AND REPORT OF TRAVEL FUNDS RECEIVED FROM NON-FEDERAL SOURCES

AUTHORITY

The authority (31 U.S.C. 1353 and 5 U.S.C. 5707) to accept travel expenses from Non-Federal sources permits Federal agencies to accept the gift of financial support for travel of its employees to attend meetings or similar functions that employees have been authorized to attend in an official capacity, provided the value to the agency offsets any possible appearance problem that may attach to the acceptance. The approving official must be able to justify the need for participation in an event and the benefit gained by the agency. The agency official may find that, while acceptance from the Non-Federal source is permissible, it is in the interest of the agency to qualify acceptance of the offered payment by, for example, authorizing attendance at only a portion of the event. **Employees may not directly accept reimbursement.**

Acceptance of travel funds under this authority should not be utilized in connection with an event required to carry out an agency's statutory and regulatory functions. This is intended to minimize the perception that programs and services mandated as part of an agency's mission would be made available only to those who could afford to pay. The term "statutory or regulatory functions" is intended to encompass a broader variety of essential functions than those specific only to an agency with regulatory responsibilities. While the purpose of the trip must be related to the official duties of the employee, the trip must not be for the purpose of performing one's line responsibilities. [NOTE: A cooperative agreement should be executed in accordance with Agency policy to substantiate repetitive travel or travel of more than 3 weeks in duration.]

Under this authority, you may accept payment of travel expenses from a Non-Federal source **on behalf of your agency**, but **not on behalf of yourself**, when specifically authorized to do so by your agency and only for official travel to a meeting or similar function. Your agency must authorize acceptance of such payments in advance of your travel. Employees may not solicit payment for travel expenses but may inform the Non-Federal source of the agency's authority to accept payment for travel expenses.

In order to accept travel funds under this authority, the event must meet the definition of a "meeting or similar function." **Meeting or similar function** means a conference, seminar, speaking engagement, symposium, training course, or similar event that takes place away from the employee's official station. **"Meeting or similar function" does not include** a meeting or other event required to carry out an agency's statutory or regulatory functions (i.e., a function that is essential to an agency's mission) such as investigations, inspections, audits, site visits, collection of research data, negotiations or litigation. **"Meeting"** also **does not include** promotional vendor training or other meetings held for the primary purpose of marketing the Non-Federal sources products or services, or long term TDY or training travel. **Also excludes** travel for which specific provisions are made within cooperative agreements and temporary duty assignments such as details, fellowships and Intergovernmental Personnel Act (IPA) agreements.

A meeting or similar function includes but is not limited to the following:

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

Non-Federal source means any person or entity other than the Government of the United States. The term includes any individual, private or commercial entity, Nonprofit organization or association, international or multinational organization, or foreign, State or local government.

Payment means a monetary payment from a Non-Federal source to a Federal agency for travel, subsistence, related expenses by check or other monetary instrument payable to the Federal agency or payment in-kind.

Payment in kind means transportation, food, lodging or other travel-related services provided by a Non-Federal source instead of monetary payments to the Federal agency for these services. Payment in kind also includes waiver of any fees that a Non-Federal source normally collects from meeting attendees (e.g., registration fees).

Travel, subsistence, and related expenses mean the same types of expenses payable under the Joint Travel Regulations (JTR) and Foreign Affairs Manual (FAM).

Your request should support how your participation relates to the mission of USDA. You must provide additional information if any of the following apply:

- The sponsoring organization is using Federal funds to defray the costs of this trip (i.e., Federal grant or contract funds);
- You serve as an officer, director, trustee, partner or an employee of the sponsoring organization;
- The sponsor is offering to pay amounts which are in excess of those ordinarily allowed by applicable Federal Travel Regulations;
- This request for acceptance of payment includes travel expenses of a spouse.

PENALTIES

Employees must never directly accept reimbursement (cash, check, etc.) there are no exceptions. If an employee accepts payment from a Non-Federal source in violation of these regulations, the employee may be required, in addition to any other penalty provided by law and applicable regulation, to pay the general fund of the Treasury, an amount equal to any payment accepted. If you violate these regulations, you may not be entitled to any reimbursement from the Government for your travel expenses that the payment was intended to cover. Employees may also be subject to appropriate disciplinary action.

PROCEDURE FOR APPROVAL

Prior approval should be sought no less than 30 days before domestic travel and 60 days in advance of international travel. Check with your Area office regarding specific time lines.

In order to accept funds under this authority, the event must meet the definition of "meeting or similar function" (see above). When seeking approval for acceptance of travel in-kind, the employee must discuss the nature of the event with their supervisor who is responsible for determining whether such participation is in the interest of USDA and of mutual benefit. The supervisor and employee should also consider whether acceptance of travel funds would cause a reasonable person with knowledge of all facts relevant to a particular case to question the integrity of agency programs or operations if payment is accepted. Once approval is granted by the supervisor, the employee should complete and submit the following documentation:

1. Obtain a copy of the written invitation.
2. Complete form AD-1101-SEB, Approval and Report of Travel Funds Received from Non Federal Sources; sign/date as Traveler, obtain supervisor's signature as Approving Official. The AD-1101-SEB can be found at: <http://www.usda-ethics.net/science/forms/index.htm>
3. Prepare a draft acceptance letter (see example on the last page). This letter should not be signed or dated until after all appropriate approvals/reviews have been completed.

4. Submit a copy of the **written invitation, AD-1101-SEB** and **draft letter of acceptance** to your appropriate ethics official for review. Handwritten signatures must appear on the AD-1101-SEB. At this time, electronic and/or digital signatures cannot be accepted. Agency ethics contacts can be found at: <http://www.usda-ethics.net/science/agency-ethics-contacts.pdf>

5. Once the conflict of interest review has been completed by an agency ethics official, the travel request will be returned to the traveler.

ACCEPTANCE OF ADDITIONAL IN-KIND EXPENSES

An offer to pay additional travel expenses while in travel status may occasionally occur; guidance should be sought from your Agency/Area Ethics advisor. You should include any supporting documents (revised AD-1101-SEB, letter of invitation, expenses paid, etc.) to your approving official upon return from travel. Prior approval for acceptance of travel expenses in kind is standard policy for USDA agencies. If your agency has already authorized acceptance of payment for some of your travel expenses for a meeting or similar function from a Non-Federal source, then you may accept on behalf of your agency, payment for any of your additional travel expenses from the same Non-Federal source as long as:

- The expenses paid or provided are comparable in value to those offered to or purchased by other similarly situated meeting attendees; and
- Your agency did not decline to accept payment for those particular expenses in advance of your travel.

If your agency did not authorize acceptance of any payment from a Non-Federal source prior to your travel, then:

- You may accept, on behalf of your agency only the types of travel expenses that are authorized by your travel authorization (i.e., meals, lodging, transportation, but not recreation or other personal expenses); and
- Only travel expenses that are within the maximum allowances stated on your travel authorization (e.g., if your travel authorization states that you are authorized to incur lodging expenses up to \$100 per night, you may not accept payment from the Non-Federal source for a \$200 per night hotel room).

IMPORTANT: You must then request your agency's authorization for acceptance from the Non-Federal source within 7 working days after your trip ends and if your agency does not authorize acceptance from the Non-Federal source, your agency must either:

- Reimburse the Non-Federal source for the reasonable approximation of the market value of the benefit provided, not to exceed the maximum allowance stated on your travel authorization; or
- Require you to reimburse the Non-Federal source that amount and allow you to claim that amount on your travel claim for the trip.

If you accept payment from a Non-Federal source for travel expenses in violation of these regulations, you will be subject to the penalties mentioned above.

NOTE: The criminal conflict of interest statute, 18 U.S.C. § 208, Acts affecting a personal financial interest, requires that an employee refrain from participating personally and substantially in an official capacity in any particular matter that will have a direct and predictable effect on the financial interests of any organization in which the individual serves as an officer, director, trustee, or employee. If you serve as an officer or employee of an organization the interests of that organization are likely assigned to you and thus prohibit you from taking any official action that would impact the interests of that same organization.

For purposes deemed official matters to which 18 U.S.C. § 208(a) would apply, such actions may include: (1) requesting that official travel funds be spent; accepting travel funds in kind or approving other Government resources be utilized for conducting or participating in the affairs of the organization; (2) signing a training or travel authorization to use appropriated funds to pay

for yourself or a subordinate to attend a conference or other meeting of the organization; (3) speaking as an official duty activity, or directing a subordinate to speak, at any conference or other meeting of the organization where attendance fees are charged. While the financial impact may be insignificant, under well settled precedent, Section 208(a) has no *de minimis* aspect.

RECORDS MAINTENANCE

Each Area is responsible for maintaining form SF-326, Semiannual Expense Report for Non-Federally Funded Travel. Reporting periods of travel cover October 1 – March 31 (report due May 31) and April 1 - September 30 (report due November 30). These reports are submitted to the USDA Office of Ethics, Science Ethics Branch (SEB) semiannually. The SEB will submit these reports to the Office of Government Ethics (OGE) for review. This information is available to the public and it is each agency's responsibility to file accurate and complete reports and to conduct a conflict of interest analysis. Each Area is responsible for maintaining statements, forms (AD-1101-SEB), and other records used to seek prior approval for acceptance of travel funds for one year after the SF-326 has been submitted to OGE.

FINANCIAL DISCLOSURE

As long as payments you receive from a Non-Federal source are made to or on behalf of your agency, you are not required to report them as gifts on any confidential or public disclosure report.

OTHER AUTHORITIES

You may also be able to accept payment of travel expenses from a Non-Federal source under the following authorities, please contact your Agency Ethics Advisor for additional guidance:

- (a) Under 5 U.S.C. 4111 for acceptance of contributions, awards, and other payments from tax-exempt entities for Non-Government sponsored training or meetings;
- (b) Under the Foreign Gifts and Decorations Act (5 U.S.C. 7342) for travel taking place entirely outside of the United States which is paid by a foreign government, where acceptance is permitted by your agency.

USDA Office of Ethics • Science Ethics Branch

5601 Sunnyside Avenue, Room 2-2290 • Beltsville, MD 20705-5620

Main #: 301-504-4414 • Fax #: 301-504-1496

Exhibit 3: Sample Letter of Acceptance

Note: This letter may not be signed/dated or sent to the sponsor of travel until the Conflict of Interest Analysis has been completed.

Dr. I. M. Smith
Chairman, Organizing Committee
CNMPS/ENA
Williamsport, Pennsylvania 17707

Dear Dr. Smith:

I am pleased to learn the work of Dr. Jones has been found to be of a level of significance and quality to warrant your invitation to *present (must specify reason for attendance)* at the 5th National Symposium on Plant Soil Interactions at Low pH to be held in South Williamsport, Pennsylvania, August 21 - 23, 2008.

I understand that your organization has had significant findings in the pH balance levels required for a variety of plant growth which would complement our recent Agency studies in soil and plant sciences. I'm confident that you will find Dr. Jones' research in pH balance quite beneficial to your ongoing work. In view of the mutual benefits to be gained from this meeting, (*Agency*) accepts your invitation on behalf of Dr. Jones.

Thank you for your offer to finance the registration fee, hotel costs, round trip travel, and per diem for Dr. Jones' participation. (*Agency*) will finance Dr. Jones' salary while participating in the symposium. Please understand that as a Federal employee Dr. Jones must adhere to certain administrative procedures related to the travel arrangements and attendance at the symposium. I would like to communicate several of those procedures as follows:

- Since Dr. Jones will participate in the activity as a Federal employee, no honoraria may be accepted. Dr. Jones may not accept any form of direct payment (cash or check) to defray the cost of travel and trip expenses.
- You may provide "in kind" assistance, whereby you furnish airline tickets or pay vendors directly for lodging, meals, local transportation, etc.
- If "in-kind" assistance cannot be provided, Dr. XXX will travel on (*Agency*) funds and upon completion of his/her travel; (*Agency*) will submit receipts for travel expenses incurred directly to your organization for reimbursement. Should you have any questions regarding these arrangements, please contact XXX – (*provide administrative contact*).

Please contact (Name, title, and address), on (telephone number) for questions pertaining to financing arrangements.

Sincerely,

Approving Official's Name, Title