

### § 304-3.9

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

Yes, you may use premium other than first-class common carrier accommodations if your agency authorizes you to do so in accordance with § 304-5.5 of this chapter.

**§ 304-3.10 May I use first-class common carrier accommodations when a non-Federal source pays in full for my transportation expenses to attend a meeting?**

Generally no. You may not use first-class common carrier accommodations unless you meet one of the criteria for first class travel contained in §§ 301-10.123, 301-10.162 and 301-10.183 of this title and are authorized to do so by your agency in accordance with § 304-5.6 of this chapter.

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

Generally yes. Subsistence expenses are usually limited to the maximum subsistence allowances (per diem, actual expenses or conference lodging) prescribed in Chapter 301 of this title for travel in CONUS, by the Secretary of Defense for travel in non-foreign areas and by the Secretary of State for travel in foreign areas. However, acceptance of payment for, and when applicable, reimbursement by an agency to an employee and the accompanying spouse of such employee are not subject to the maximum per diem or actual subsistence expense rates when traveling in CONUS or in non-foreign areas under the following conditions:

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

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

(c) Your agency has approved acceptance of payment from the non-Federal source prior to your travel; if your

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agency has not approved any acceptance from the non-Federal source, you may not exceed the maximum allowances. See § 304-3.13.

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

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

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

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

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

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

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

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

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

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

(ii) Only travel expenses that are within the maximum allowances stated on your travel authorization (*e.g.*, if your travel authorization states that you are authorized to incur lodging expenses up to \$100 per night, you may

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not accept payment from the non-Federal source for a \$200 per night hotel room);

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

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

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

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

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

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

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

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

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

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

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

Yes. Your agency must submit to the U.S. Office of Government Ethics (OGE) a semiannual report (SF 326) of all payments it accepts under this part.

You must be prepared to give your agency the information it needs in order to submit its report.

## **Subpart B—Reimbursement Claims**

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

You must submit a travel claim listing all allowable travel expenses that you incurred which were not paid in kind by a non-Federal source. Do not claim travel expenses that were furnished in kind by a non-Federal source. Your reimbursement is limited to the types of expenses authorized in Chapter 301 of this title or analogous provisions of the Joint Travel Regulations or Foreign Affairs Manual. Reimbursement from your agency for expenses will not in any case exceed the amount of the expenses you incur. Such reimbursement will also adhere to established regulatory limitations except where your agency accepts payments under §§ 304-5.4, 304-5.5 or 304-5.6 of this chapter.

## **Subpart C—Reports**

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

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

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

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

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

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

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

**Subpart E—Relation to Other Authorities****§ 304-3.19 Are there other situations when I may accept payment from a non-Federal source for my travel expenses?**

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

(a) Under 5 U.S.C. 4111 for acceptance of contributions, awards, and other payments from tax-exempt entities for non-Government sponsored training or meetings (see regulations issued by the Office of Personnel Management at 5 CFR part 410).

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

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

(d) Pursuant to the applicable standards of ethical conduct regulations concerning personal acceptance of gifts. For example, under 5 CFR 2635.204(e), which authorizes executive branch employees to accept gifts based on outside business employment relationships. (Note: You may also be able to accept attendance at (but not other travel expenses to) a widely attended gathering under 5 CFR 2635.204(g)(2) when the gathering is not a meeting, as defined in this part, and you are not attending in your official capacity.)

## SUBCHAPTER B—AGENCY REQUIREMENTS

### PART 304-4—AUTHORITY

Sec.

304-4.1 To whom do the pronouns “we”, “you”, and their variants refer throughout this part?

304-4.2 What is the purpose of this part?

304-4.3 Under what other authority may we accept payment for travel expenses from a non-Federal source?

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

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

#### **§304-4.1 To whom do the pronouns “we”, “you”, and their variants refer throughout this part?**

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

#### **§304-4.2 What is the purpose of this part?**

The purpose of this part is to establish Governmentwide policy and guidance for acceptance by a Federal agency of payment for travel expenses from a non-Federal source for employees to attend meetings under 31 U.S.C. 1353. It prescribes how such payments may be accepted.

#### **§304-4.3 Under what other authority may we accept payment for travel expenses from a non-Federal source?**

You may accept payment for travel expenses to events other than meetings from a non-Federal source pursuant to an agency gift statute or similar statutory authority. However, this part 304 is the only authority you may use to accept (or authorize your employee to accept on your behalf) payment for travel expenses from a non-Federal source to attend a meeting. For example, you could not pay the travel expenses for an employee to attend a meeting and then authorize the employee to use the widely attended gathering exception in 5 CFR 2635.204(g)(2) to accept free attendance at that same meeting. You would only be able to accept payment for the employee's attendance at that meeting under this part 304.

NOTE: Employees may also be able to accept payment for travel expenses from non-Federal sources in their individual capacities under the authorities referenced in §304-3.19.

### PART 304-5—AGENCY RESPONSIBILITIES

Sec.

304-5.1 When may we accept payment from a non-Federal source for travel to a meeting or authorize an employee to accept payment on our behalf?

304-5.2 Who must approve acceptance of payment from a non-Federal source for travel expenses to a meeting?

304-5.3 What does our approving official need to consider before approving official acceptance of payment from a non-Federal source for travel expenses for a meeting?

304-5.4 May we authorize an employee to exceed the maximum subsistence allowances (per diem, actual expense, or conference lodging) prescribed in applicable travel regulations where we have authorized acceptance of payment from a non-Federal source for such allowances?

304-5.5 May we authorize an employee to travel by premium other than first-class common carrier accommodations if we accept payment in full from a non-Federal source for such transportation expenses?

304-5.6 May we authorize an employee to travel by first-class common carrier accommodations if we accept payment in full from a non-Federal source for such transportation expenses?

304-5.7 May we authorize acceptance of payment from more than one non-Federal source for a single trip?

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

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

#### **§304-5.1 When may we accept payment from a non-Federal source for travel to a meeting or authorize an employee to accept payment on our behalf?**

You may accept payment from a non-Federal source or authorize an employee and/or the employee's spouse to accept payment on your behalf only when-

(a) You have issued the employee (and/or the employee's spouse, when applicable) a travel authorization before the travel begins;

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(b) You have determined that the travel is in the interest of the Government;

(c) The travel relates to the employee's official duties; and

(d) The non-Federal source is not disqualified due to a conflict of interest under § 304-5.3.

**§ 304-5.2 Who must approve acceptance of payment from a non-Federal source for travel expenses to a meeting?**

An official at the highest practical administrative level who can evaluate the requirements in § 304-5.3, must approve acceptance of such payments.

**§ 304-5.3 What does our approving official need to consider before authorizing acceptance of payment from a non-Federal source for travel expenses for a meeting?**

(a) The approving official must not authorize acceptance of the payment if he/she determines that acceptance of the payment 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. The approving official must be guided by all relevant considerations, including but not limited to the—

(1) Identity of the non-Federal source;

(2) Purpose of the meeting;

(3) Identity of other expected participants;

(4) Nature and sensitivity of any matter pending at the agency which may affect the interest of the non-Federal source;

(5) Significance of the employee's role in any such matter; and

(6) Monetary value and character of the travel benefits offered by the non-Federal source.

(b) 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 or limiting the type or character of benefits that may be accepted.

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**§ 304-5.4 May we authorize an employee to exceed the maximum subsistence allowances (per diem, actual expense, or conference lodging) prescribed in applicable travel regulations where we have authorized acceptance of payment from a non-Federal source for such allowances?**

(a) Generally, yes. Subsistence allowances are usually limited to the maximum subsistence allowances (per diem, actual expense, or conference lodging) prescribed in chapter 301 of this title for travel in CONUS, by the Secretary of Defense for travel in non-foreign areas, and by the Secretary of State for travel in foreign areas. However, the maximum subsistence allowances established by this title and by the Secretary of Defense may be exceeded as long as—

(1) The non-Federal source pays the full amount of the subsistence expenses, at issue; and

(2) The subsistence expense paid by the non-Federal source is comparable in value to that offered to or purchased by meeting attendees.

(b) The maximum subsistence allowances prescribed by the Secretary of State for travel to foreign areas may not be exceeded.

**§ 304-5.5 May we authorize an employee to travel by premium other than first-class common carrier accommodations if we accept payment in full from a non-Federal source for such transportation expenses?**

Yes, you may authorize an employee to travel by premium other than first-class common carrier accommodations as long as the—

(a) Non-Federal source makes full payment for such transportation services in advance of travel; and

(b) Transportation accommodations furnished are comparable in value to those offered to, or purchased by, other similarly situated meeting attendees.

**§ 304-5.6 May we authorize an employee to travel by first-class common carrier accommodations if we accept payment in full from a non-Federal source for such transportation expenses?**

Generally, no; however, you may authorize an employee to travel by first-

class common carrier accommodations if the—

(a) Travel meets at least one of the conditions in §§ 301-10.123, 301-10.162 and 301-10.183 of this title; and

(b) Transportation accommodations furnished are comparable in value to those offered to, or purchased by, other similarly situated meeting attendees.

**§ 304-5.7 May we authorize acceptance of payment from more than one non-Federal source for a single trip?**

Yes, you may accept payment from more than one non-Federal source for a single trip, as long as the total of such payments do not exceed the total cost of the trip.

**PART 304-6—PAYMENT GUIDELINES**

**Subpart A—General**

Sec.

304-6.1 May we accept a monetary payment in the form of cash from a non-Federal source?

304-6.2 What should we do if a non-Federal source does not pay the full cost for expenses that an employee will incur during travel?

304-6.3 What happens if an employee accepts payment from a non-Federal source that is in violation of this part?

**Subpart B—Reports**

304-6.4 What form must we use to report payments received by the agency from non-Federal sources?

304-6.5 What guidelines must we follow when using the Standard Form (SF) 326?

**Subpart C—Valuation**

304-6.6 How do we determine the value of payments in kind that are to be reported on Standard Form (SF) 326?

304-6.7 Must we report on the Standard Form (SF) 326 any information that is protected from disclosure by statute?

304-6.8 Will the reports be made available for public inspection?

304-6.9 Does acceptance by OGE of the Standard Form (SF) 326 constitute a determination by OGE that the data submitted is adequate or a concurrence by OGE in the agency's conflict of interest analysis?

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

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

**Subpart A—General**

**§ 304-6.1 May we accept a monetary payment in the form of cash from a non-Federal source?**

No, you may not accept a monetary payment in the form of cash from a non-Federal source. Monetary payment(s) received from a non-Federal source must be in the form of a check or similar instrument made payable to the agency.

**§ 304-6.2 What should we do if a non-Federal source does not pay the full cost for expenses that an employee will incur during travel?**

If you determine in advance of the employee's travel that payment from a non-Federal source will cover some but not all of the employee's allowable travel and subsistence expenses you should state on the employee's travel authorization that the employee will be reimbursed the difference between the full allowances and the payment from the non-Federal source. See chapter 301 of this Title, 6 Foreign Affairs Manual, Chapter 100, or the Joint Travel Regulations (JTR), Chapter 4, Parts L and Q, as applicable to determine the applicable maximum allowances.

**§ 304-6.3 What happens if an employee accepts payment from a non-Federal source that is in violation of this part?**

If an employee accepts payment from a non-Federal source in violation of this part—

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

(b) The employee shall not be entitled to any reimbursement from the Government for such expenses.

**Subpart B—Reports**

**§ 304-6.4 What form must we use to report payments received by the agency from non-Federal sources?**

Your agency head or designee must submit Standard Form (SF) 326, Semi-annual Report of Payments Accepted