



**UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION**

DIRECTIVE NUMBER: D312.1

SUBJECT: Agency Acceptance of Travel Expenses from
Non-Federal Sources

DIRECTIVE OWNER: Office of the General Counsel, General Law Division

EFFECTIVE DATE: September 20, 2019

CERTIFIED CURRENT DATE: September 20, 2019

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1. **PURPOSE.** This Directive establishes the procedures for the agency's acceptance of travel expenses from non-federal sources for Commission or CPSC personnel to attend meetings or similar functions relating to their official duties that take place away from their duty station. (For the procedures regarding gifts other than travel, consult Directive Number D312.2.)
 2. **AUTHORITY.**
 - a. 15 U.S.C. § 2076(b)(6), Commission Authority to Accept Gifts and Uncompensated Services (Consumer Product Safety Act or CPSA).
 - b. 15 U.S.C. § 2086, Prohibition on Industry-Sponsored Travel (CPSA).
 - c. 31 U.S.C. § 1353, Acceptance of Travel and Related Expenses from Non-Federal Sources.
 - d. 41 CFR Part 304, Payment of Travel Expenses from a Non-Federal Source (Federal Travel Regulation or FTR).
 - e. 41 CFR Part 301, Temporary Duty (TDY) Travel Allowances (FTR).
 - f. 5 U.S.C. § 4111, Acceptance of Contributions, Awards, and Other Payments (Government Employees Training Act or GETA).
 - g. 5 CFR Part 410, Subpart E, Accepting Contributions, Awards, and Payments from Non-Government Organizations (GETA).
 - h. 5 U.S.C. § 7342, Receipt and Disposition of Foreign Gifts and Decorations

(Foreign Gifts and Decorations Act or FGDA).

- i. 5 CFR § 2635, Subpart B, Gifts from Outside Sources (Standards of Ethical Conduct for Employees of the Executive Branch or Standards of Conduct).

3. DEFINITIONS.

- a. **Accepting Official.** An official at the highest practical administrative level who has been delegated authority to approve acceptance of travel expenses on behalf of the agency. This official is typically the Executive Director.
- b. **Employee.** Any official or employee of the agency, including Commissioners and special government employees, as defined in 18 U.S.C. § 202.
- c. **Meeting or similar function.** As defined in 41 CFR § 304-2.1, 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. A "meeting" for this purpose does not include functions that are essential to an agency's mission, such as investigations, inspections, site visits, or litigation. Nor does it include promotional vendor training. A meeting or similar function need not be widely attended for purposes of this definition. It includes, but is not limited to, the following:
 - (1) An event at which the employee will participate as a speaker or panel participant, including an event at which the employee will give an oral presentation focusing on his/her official duties or on the policies, programs, or operations of the agency.
 - (2) A conference, convention, seminar, symposium, or similar event when 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.
 - (3) An event at which the employee will receive an award or honorary degree in recognition of meritorious public service related to the employee's official duties that may be accepted by the employee consistent with the applicable ethics regulations in the Standards of Conduct.
- d. **Non-Federal source.** 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, or international or multinational organization (irrespective of whether an agency holds

membership in the organization or association), or foreign, state, or local government (including the government of the District of Columbia).

- e. **Payment.** Funds paid to the agency by a non-federal source for employee travel, subsistence, and related expenses by check or similar instrument.
- f. **Payment in kind.** Goods, services, or other benefits provided to an agency employee by a non-federal source for travel, subsistence, and related expenses in lieu of funds paid by check or similar instrument to the agency for the same purpose.
- g. **Prohibited Source.** Any entity individual or organization that fits at least one of these criteria:
 - (1) A person seeking official action from, doing business with, or conducting activities regulated by the agency.
 - (2) A person whose interests may be substantially affected by the performance or nonperformance of an employee's official duties.
 - (3) A consumer product importer, manufacturer, distributor, retailer, or representative of such organization.
 - (4) A consumer, public interest, or other group, or a representative of such organization that seeks regulatory or other official action by the agency.
 - (5) A professional, trade, or business association, or a representative of such organization, a substantial majority of whose members are regulated by or do business with, the agency.
 - (6) A consensus standards organization involved with consumer product standards, or a representative of such organization.
 - (7) An organization that accredits laboratories or laboratories that perform testing or other evaluation of consumer products, or a representative of such organization.
 - (8) A person or company, or a representative of such organization, that has or is seeking a government contract or grant from the agency.
 - (9) A person or company, or a representative of such organization, that is involved in litigation with the agency.

(10) A media representative seeking information from or an interview or an ongoing working relationship with an employee regarding official agency business.

(11) An organization a majority of whose members are described in this section.

h. **Travel, subsistence, and related expenses.** As defined in 41 CFR § 304-2.1, the same types of expenses payable pursuant to the Federal Travel Regulation, 41 CFR part 301. These expenses also include conference or training fees (in whole or in part), as well as benefits that cannot be paid under the applicable travel regulation but which are incident to the meeting and provided in kind and made available by the sponsor(s) to all attendees.

4. **SCOPE.** This Directive establishes a policy for the agency to accept gifts of travel expenses from a non-federal source so that employees may attend meetings or similar functions relating to their duties that take place away from their duty station.

This Directive does not apply to:

- a. Gifts or payments for travel expenses provided by the federal government.
- b. Gifts or payments for travel expenses accepted by an employee in his or her personal capacity in accordance with the applicable Standards of Conduct, 5 CFR part 2635, Subpart B, Gifts from Outside Sources.
- c. Travel that takes place entirely outside the United States when the benefits are provided by a foreign government pursuant to the Foreign Gifts and Decorations Act, 5 U.S.C. § 7342.
- d. Travel and training related expenses that are paid for by certain nonprofit organizations pursuant to the Government Employees Training Act, 5 U.S.C. § 4111, codified at 5 CFR part 410, Subpart E.
- e. Travel for partisan rather than official purposes in accordance with the Hatch Act, 5 U.S.C. § 7324.

5. **RESPONSIBILITIES.**

- a. Except as otherwise provided in paragraphs b and c of this section, the **Executive Director**, on behalf of the agency, is authorized to serve as the Accepting Official for travel expenses from non-federal sources for agency employees, in accordance with the procedures set forth in this Directive. This authority may be exercised by an official with delegated authority in the absence of the Executive Director.

- b. A **Commissioner** may serve as the Accepting Official for travel expenses from non-federal sources on behalf of him or herself and his or her immediate staff members in accordance with the applicable procedures set forth in this Directive.
- c. The **Chairman** serves as the Accepting Official for travel expenses from non-federal sources that are offered to the Executive Director. This authority may be exercised by the Vice Chairman in the absence of the Chairman.
- d. The **Office of the General Counsel** shall provide legal counsel to all agency employees, including the Commissioners, regarding the prohibition on industry-sponsored travel and conflict of interest issues relating to agency acceptance of non-federally sponsored travel. The General Counsel shall report travel expenses accepted under 31 U.S.C. § 1353 to the Office of Government Ethics (OGE). This responsibility may be exercised by the Assistant General Counsel for General Law.
- e. The **Division of Financial Services (FMFS)** is responsible for specifying agency accounting and reporting requirements of accepted travel expenses, reimbursements and payments, and for maintaining an agency record of such acceptances.

6. POLICY ON ACCEPTANCE OF SPONSORED TRAVEL EXPENSES.

- a. **Acceptance of travel and payment for employee travel.** All industry-sponsored travel is prohibited pursuant to 15 U.S.C. § 2086. Additionally, sponsored travel may not be accepted from a prohibited source as defined in Section 3(g) of this Directive. However, the agency may accept sponsored travel expenses from a non-federal source that is neither industry nor a prohibited source, for an employee to attend a meeting or similar function in an official capacity on behalf of the agency.

For the agency to accept travel sponsorship from a non-federal source, the Accepting Official must determine before the travel that the payment is:

- (1) For travel for an employee to attend a meeting or function relating to the employee's official duties if the travel is performed under an official travel authorization issued to the employee; and
- (2) From a non-federal source that is not a "prohibited source," as defined in this Directive.

Sponsorship of travel expenses from a non-federal source shall not be accepted if the Accepting Official determines that acceptance under the

circumstances would cause a reasonable person with knowledge of all the facts to question the integrity of agency employees, programs, or operations.

The Accepting Official may find that, even if acceptance from the non-Federal source is permissible, it is in the interest of the agency to qualify acceptance of the gift by, *e.g.*, authorizing attendance at only a portion of the event or limiting the type or character of benefits that may be accepted. It is never inappropriate and frequently prudent for the Accepting Official to decline a gift of travel offered to the agency.

- b. **Spousal Travel.** In certain circumstances, unless otherwise prohibited, the agency may allow a non-federal source to pay for the travel expenses of an employee's spouse to accompany the employee on official duty to a meeting or similar event. The conditions for accepting and reporting a gift of spousal travel shall be in accordance with the FTR and 5 CFR part 2635.
 - c. **Solicitation prohibited.** An employee shall not solicit payment for travel, subsistence, and related expenses from any non-federal source. However, in the course of discussions of an event, the employee may inform the non-federal source of the agency's authority to accept payment for employee travel expenses.
7. **CANCELLATION.** This Directive supersedes in part Order No. 0680.2, Acceptance of Gifts and Travel Expenses from Non-Federal Sources. Directive D312.2 addresses the portion of Order No. 0680.2 that is not addressed in this Directive.


Ann Marie Buerkle
Acting Chairman


Date

Reference Materials:

- Implementing Procedure IP312.1, Agency Acceptance of Travel Expenses from Non-Federal Sources
- Sample Memorandum
- Sample Acknowledgment Letter