

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

### 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** means 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 must be sought no less than 30 days before domestic travel and 60 days in advance of international travel. No exceptions will be made to these required timelines.**

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, Approval and Report of Travel Funds Received from Non Federal Sources; sign/date as Traveler. You must obtain your supervisor's approval prior to submission. The AD-1101 can be found at: <http://ethics.usda.gov/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** and **draft letter of acceptance** to your appropriate ethics official for review. Handwritten or digital signatures must appear on the AD-1101. Agency ethics contacts can be found at: <http://ethics.usda.gov/science/docs/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. At this time, the supervisor may finalize the draft letter of acceptance and mail it to the sponsor.

## **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. 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 OGE-1353, Semiannual Report of Payments Accepted from a Non-Federal Source. 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), 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.

## **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.

## SAMPLE LETTER OF ACCEPTANCE

*(To be prepared on Agency letterhead with the signature block of the traveler's supervisor. **Note:** This letter may not be signed or dated and sent to the sponsor of travel until the Conflict of Analysis has been completed by an Agency Ethics Official.)*

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, 2014.

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 at your location)*.

Please contact *(Name, title, and address of Agency Budget Contact)*, on *(telephone number)* for questions pertaining to financing arrangements.

Sincerely,

Approving Official's Name, Title  
*(The traveler's supervisor would be the approving official)*