

CHARITABLE FUNDRAISING - 5 C.F.R. § 2635.808

For Department employees, charitable fundraising in an official capacity may be permitted only if the charitable organization is approved by the Office of Personnel Management (OPM). At this time, the only charitable organization sanctioned by OPM is the Combined Federal Campaign. The rules governing acceptable fundraising activities by Federal employees are contained in 5 CFR Part 950. Raffles, lotteries, bake sales, carnivals, athletic events, or other fundraising activities not specifically provided for by regulation are prohibited. The prohibition extends to activities such as Girl Scout cookie drives and sports tournament ladders where participants contribute money.

An employee may engage in fundraising activities as a private citizen, on their own time and away from the workplace, provided that the employee does not use their official title or position to further the fundraising event. Even when acting as a private citizen, however, an employee may not solicit funds or other support from subordinates or from prohibited sources.

A limited exception exists for recognized employee organizations (such as the IDRA) to conduct fundraising activities to benefit their members and their families.

Finally, the fundraising restrictions pertain to the raising of funds, but not to campaigns for “in-kind” donations such as food, clothing and toys. Such charitable drives are permissible but employees and management should make every effort to limit the amount of official time, space and equipment that are used to avoid negative impact on the work of the office.

GIFTS OF TRAVEL

ACCEPTANCE OF PAYMENT FOR TRAVEL EXPENSES FROM A NON-FEDERAL SOURCE

Guidance for Employees

Introduction

As a general rule, there must be specific statutory authority to accept funds from a non-Federal source. In the absence of such authority, the acceptance of funds may constitute an unlawful augmentation of appropriations. Fortunately, there are several statutes authorizing agencies to accept payments from non-Federal sources for expenses incident to official travel. These statutes have particular purposes, however, and do not provide unrestricted authority to accept non-Federal funds for any purpose.

31 U.S.C. § 1353 (Section 1353), as implemented by the Federal Travel Regulations at 41 C.F.R. Part 304 (Part 304), is the **exclusive authority** for accepting non-Federal funds for meetings or similar functions, as defined in Section 1353 and Part 304. If the travel is for some purpose other than to attend a meeting or similar function, contributions from non-Federal sources may be accepted under specific gift acceptance statutes or one of the other limited statutory authorities.¹ Employees should consult the Solicitor's Office prior to invoking one of these other statutory authorities.

This guidance focuses primarily on Section 1353 and Part 304, and generally summarizes the current requirements for acceptance by agencies of travel expenses under this authority. Employees must be specifically authorized by their agencies to accept the payments on the agency's behalf. Part 304 was revised in 2003.

Employees frequently confuse these rules with the Government-wide Standards of Conduct concerning gifts from "prohibited sources." These ethics rules are found at 5 C.F.R. §§ 2635.201 - 205. It is important to remember that the ethics rules cover *personal gifts*, whereas Section 1353 and other authorities authorize *gifts to the agency*. As a general matter, whenever the gift of travel expenses is for something that is paid directly by the agency (such as airfare and rental cars) or reimbursed to the traveler (such as hotels and meals), the gift will be one made to the agency, and must be handled under Section 1353 and Part 304. For example, an employee who

¹For example, 5 U.S.C. § 4111 allows agencies to accept contributions from tax-exempt entities to attend non-government sponsored training or meetings. See 5 C.F.R. § 410.

has been authorized to accept travel expenses from a non-Federal source may not also claim that the gift may be accepted under the Standards of Conduct.

The following questions and answers should address most issues that arise involving the acceptance of travel expenses under Section 1353 and Part 304. For more detailed guidance, please refer to the regulations or consult your travel administrator, Ethics Official or the Department's Ethics Office, or your Field or Regional Solicitor's Office.

For what kinds of meetings or other events may travel expenses be accepted under this authority?

Section 1353 authorizes employees and agencies to accept travel expenses in connection with attendance at meetings or similar functions that take place away from the employee's official duty station and are of mutual interest to the agency and the non-Federal source. A meeting or similar function may be a conference, seminar, speaking engagement, symposium, award or other recognition of meritorious public service relating to the employee's official duties. Such events also may include a training course, but not promotional vendor training or other meetings held primarily for marketing the non-Federal source's products or services.

Employees **may not** accept travel expenses for attendance at meetings or other events that are required to carry out a function that is essential to the agency's statutory or regulatory duties, such as an inspection, a hearing or a negotiation.

May an employee ask a non-Federal source to pay for travel expenses?

No. Employees may not solicit payment for travel expenses from a non-Federal source, but they may inform a non-Federal source of the authority to accept such payments under Section 1353 or other applicable authority.

Must the agency approve the acceptance of travel expenses in advance?

With limited exception, the agency must approve the acceptance of travel expenses in advance of the employee's travel, preferably at the same time that the travel authorization is approved. Once travel has commenced, the agency may approve the acceptance of travel expenses **only** when the non-Federal source's offers to pay the travel expenses occurred after travel has begun and as long as the agency or employee did not have prior knowledge of the offer.

Must acceptance of an offer of travel expenses be documented in writing?

Yes. DOI employees must use the "DI-2000" form in conjunction with the travel authorization to document their request and their agency's approval of acceptance of travel payments from a non-Federal source. See attached form. The Office of Government Ethics requires that agencies report twice annually all instances of acceptance of gifts of travel expenses from non-federal

sources. The Department's Ethics Office coordinates this effort by collecting copies of all bureau and office DI-2000s.

Under what circumstances may an agency approve acceptance of travel expenses?

Within DOI, acceptance of a gift of travel expenses may be approved by the same or higher-level official who approves the employee's travel authorization, or other designee, with assistance from an Ethics Official.

An agency may accept or authorize an employee to accept payment from a non-Federal source for travel to a meeting only when the agency has:

- Issued a travel authorization before the travel begins;
- Determined that the travel is in the interest of the Government and relates to the employee's official duties (noted on the DI-2000); and
- Determined that acceptance of the payment under the circumstances would not cause a reasonable person with knowledge of all the facts to question the integrity of the agency's programs or operations (also noted on the DI-2000).

In making the latter determination the approving official should consider all relevant factors, including but not limited to the identity of the non-Federal source; the purpose of the meeting, the identity of other participants; the nature and sensitivity of other matters pending at the agency that may affect the non-Federal source; the significance of the employee's role in any such matter; and the amount and nature of the travel benefits offered.

After considering these and other appropriate factors, the agency may accept or decline the offered payment, or may qualify its acceptance by limiting the extent of the employee's participation or the type or character of benefits that may be accepted. The agency must document its acceptance of the payments on the DI-2000 form. If the gift is declined, no DI-2000 is required.

What kinds of travel expenses may be accepted?

Employees and agencies may accept payment other than cash from a non-Federal source for all or some of the employee's official travel expenses to attend a meeting or similar function. Generally, employees are limited to the maximum allowable travel expenses for regular travel under applicable GSA travel regulations. Employees may accept premium or first-class carrier accommodations only if specifically authorized by their agency under the applicable regulatory provisions. Employees also may accept benefits that cannot be paid under the applicable travel regulations but which are incident to the meeting, provided in kind, and made available by the

meeting sponsor to all attendees (such as a sporting event hosted by the sponsor in connection with the meeting).

A non-Federal source also may pay travel expenses for an employee's spouse when it is determined to be in the interest of the employee's agency, such as for an award ceremony or other circumstances the agency determines will support its mission.

May the non-Federal source pay the employee directly?

No. The non-Federal source may either pay the agency directly (in which case the employee processes their travel and obtains reimbursement from the agency in the conventional way), or pay for the travel expenses directly so that the employee and agency do not directly incur travel expense charges (in which case the travel expenses are accepted "in-kind").

What should an employee do if a non-Federal source offers to pay some or all of the employee's travel expenses after travel has begun?

If the agency already has authorized acceptance of payment for some of the employee's travel expenses for that meeting, then the employee may accept payment for additional expenses from the same non-Federal source as long as the agency did not decline to accept payment for these particular expenses and the expenses are comparable in value to those of other "similarly situated" meeting attendees.

If the agency did not authorize acceptance of travel expenses from a non-Federal source prior to the travel, then the employee may accept payment only for the types of expenses authorized on the employee's travel authorization (i.e., meals, lodging, transportation), and the amounts of the payments may not exceed the maximum allowances stated on the travel authorization.

In either case, the employee must request agency authorization within seven (7) days after the travel ends. If the agency declines to accept the payment from the non-Federal source, the agency must either reimburse the non-Federal source the value of the benefit provided, or require the employee to reimburse the non-Federal source and then claim that amount on the employee's travel voucher for the trip.

May an employee accept free attendance at events other than the meeting that is offered by a different non-Federal source?

When the free attendance is offered by someone other than the source approved under Section 1353, and is one that would not ordinarily be reimbursed to the traveling employee (such as a reception or other event), the employee may accept the offer of free attendance if such acceptance would not violate the Standards of Conduct regarding acceptance of gifts. For example, the employee may accept free attendance from a prohibited source if the event qualifies

as a “widely attended gathering” under 5 C.F.R. § 2635.204(g). The rules covering gifts to employees may not be used where the expense would be reimbursed to the traveling employee, such as for a meal; as such gifts are to the agency and therefore must be approved under Section 1353.

Must a claim for reimbursement of travel expenses (travel voucher) reflect the payment by the non-Federal source?

Employees may not claim travel expenses that were provided in-kind by a non-Federal source. For example, if the non-Federal source provided a meal, the employee’s travel reimbursement must be decreased by the amount that would otherwise be payable for that meal.

Must payments of travel expenses by a non-Federal source be reported on a financial disclosure report?

No, since the travel expense is accepted by or on behalf of the employee’s agency and therefore is not a personal gift to the employee. However, if an employee and/or accompanying spouse receives such a payment on their own behalf, rather than on behalf of the agency (i.e., when Section 1353 authority is not applicable), they may be required to report the payments as gifts on their financial disclosure form.

What happens if payment from a non-Federal source is accepted in violation of the regulations?

If an employee accepts payment or travel benefits in violation of the regulations, the agency:

1. May require the employee to pay the general fund of the Treasury an amount equal to any payment or benefit accepted;
2. Must deny the employee any reimbursement for the travel expenses the payment was intended to cover; and
3. May impose any other penalty provided by law and regulations.

WIDELY ATTENDED GATHERINGS

For purposes of the gift rules, accepting free attendance at a widely attended gathering is considered a gift to the employee. The widely attended gathering is considered an exception to the general prohibition on receiving gifts from outside sources. [5 CFR 2635.204(g)]

- Type of Event:** A widely attended gathering of mutual interest to a number of parties – a diversity of views or interests will be present.
- Location:** No restrictions on location, but is normally used for local events.
- Source/Type of Payment:** The sponsor of the event – no restriction on amount
- Someone other than the sponsor – the event must then have more than 100 persons attending and the cost of attendance may not exceed \$285. Note: Amount incorrect on current version of DOI form.
- Payment for employee’s attendance may be in-kind only.
- Nature of Benefits:** Waiver of attendance fee, food, refreshments, entertainment and instructional materials integral to the event. No travel expenses (if travel expenses offered, consider appropriateness of acceptance under the rule for accepting travel expenses from non-federal source – DI-2000 Form).
- Conflict Analysis:** Agency must determine that the employee’s attendance is in the interest of the agency, in that it will further agency programs or operations.
- Agency Approval:** If the person who extends the invitation has interests that could be substantially affected by the performance of the employee’s duties, the agency must make a written determination of agency interest in advance of the event. (DI-1958 Form). See attached form.

POST EMPLOYMENT - 18 U.S.C. § 207

This statute **DOES NOT** bar any individual, regardless of rank or position, from accepting employment with any private or public employer. It does impose restrictions on communications that employees may make as a representative of a third party back before the government. Under 18 U.S.C. § 207, there are six prohibitions. This training will focus on three which may apply to most employees:

- **207(a) (1). Restrictions that apply to all former employees.** A lifetime bar which prohibits a former employee from serving as another person's representative to the Government on a case, contractual matter, or other similar application or proceeding in which he or she participated personally and substantially while a Government employee.

-There are two important limitations to this prohibition which prohibit former employees from "switching sides." First, the former employee is not restricted unless the matter in which he previously participated (1) was a "particular matter involving specific parties" and (2) is the matter in which he or she now attempts to represent another before the Government.

-This bar requires that the employee had been personally involved in the matter in a substantial way.

-The kind of representation that is restricted includes not only acting as another's attorney or agent, but any other kind of representative or communication with intent to influence the United States. This includes promotional and contract representation.

- **207(a) (2). Two-year bar restrictions that apply to former managers and supervisors.** A two-year bar which prohibits former employees from serving as another person's representative to the Government on a case, contractual matter, or other similar application or proceeding which was under his or her management authority in the last year of his/her government service.

-If a former employee is in doubt as to whether a matter was under his or her official responsibility, whether it is the same "particular matter" as that with which he was involved, or whether the United States still has an interest in the matter, he or she should consult with the appropriate ethics office for guidance.

- **207(c). One-year bar restrictions that apply to former "senior employees."**

“Former senior employees” are those former employees who occupied any position paid under the Executive Level (EL) pay scale and all Senior Executive Service Employees who had a rate of basic pay that is equal to or greater than 86.5 percent of the rate for level II of the Executive Schedule (\$136,757 in CY 2004). (**Note:** Prior to January 11,

2004, a “senior” employee in the SES was determined based on the employee’s pay level under the SES pay system. The six-level SES pay system was abolished by statute in late 2003.)

For one year after termination of service in a senior position, no former senior employee may knowingly make, with the intent to influence, any communication to or appearance before an employee of a department or agency in which he served in any capacity during the one-year period prior to termination from the senior position, if the communication or appearance is made on behalf of any other person (except the United States), in connection with any matter concerning which he seeks official action by the employee.

-This one-year "cooling-off" ban does not require that the former employee have ever been involved in the matter that is the subject of the communication or appearance.

-The matters covered need not involve specific parties, so the former employee could not, for example, attempt to influence general rulemaking, general policy issues or general legislation.

-The provision only prohibits communications to or appearances before employees of any department or agency in which he or she formerly served in any capacity during the one-year period prior to his or her termination from senior service. Telephone calls or mere presence of a former senior employee at a meeting where federal employees are present may trigger this restriction. In DOI, the location of an employee’s service is determined based on whether the employee served during his or her last year in a senior position in a designated “component” entity or the “parent” organization, as specified in Appendix B of 5 C.F.R. Part 2641. See your ethics officials for specific advice.

Exceptions

Exception to all post-employment statutes.

- An exception is provided to all of the post-employment statutes when the post-employment activities are performed:
 - in carrying out official duties on behalf of the United States or,
 - in carrying out official duties as an elected official of a state or local Government.
- An exception is provided to all the prohibitions of 18 U.S.C. 207 for former employees employed by a federally recognized Indian tribe when communicating on behalf of the tribe. This applies to ALL former employees, not just Bureau of Indian Affairs employees. In

order for this exception to apply, the former employee must provide written notification to the head of the department, agency, court, or commission with which he or she is dealing or appearing on behalf of the tribe of any personal and substantial involvement he or she may have had as an employee of the United States in connection with the matter involved. See 25 U.S.C. § 450i (j).

Exception for former senior and very senior employees.

- An exception is provided to former senior or very senior employees for the one-year bans of 18 U.S.C. § 207(c) or (d) when the communication or appearance is made in carrying out official duties as an employee of and is made on behalf of:
 - an agency or instrumentality of a State or local Government,
 - an accredited degree-granting institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965, or
 - a hospital or medical research organization exempted and defined under section 501(c) (3) of the Internal Revenue Code of 1986.

REPORT OF PAYMENTS ACCEPTED FROM NON-FEDERAL SOURCES UNDER 31 U.S.C. § 1353 U.S. DEPARTMENT OF THE INTERIOR	
<input type="checkbox"/> For Period Beginning October 1, 200__ and Ending March 31, 200__ <input type="checkbox"/> For Period Beginning April 1, 200__ and Ending September 30, 200__	
This report implements 31 U.S.C. § 1353. It does not supersede other reports that may have to be filed when travel or travel expenses are accepted under other authority. For definitions and policies, see 41 CFR Part 304-1.	
1. Bureau/Office	2. For Report of this Event Page __ of __
3. Event (<i>Identify meeting or similar function for which payment was accepted under 31 U.S.C. § 1353. Forms documenting payments of \$250 or more per employee and/or accompanying spouse must be sent to the Department Ethics Office.</i>)	
4. Sponsor of the Event	5. Location of Event
6. Dates of Event From: _____, 200__ To: _____, 200__	
7. Nature of Event	
8. Employee Name: Official Title: Office: Travel Dates: From: _____ To _____	9. Accompanying Spouse (<i>If Applicable</i>) Name: Employee: Government Position: Travel Dates: From: _____ To _____
10. Non-Federal Sources of Payment (<i>Identify all non-Federal sources from which payment was accepted under 31 U.S.C. § 1353 for this employee and/or accompanvine spouse in connection with this event.</i>) A. _____ C. _____ B. _____ D. _____	
11. Nature of Payments (<i>Itemize on back of form.</i>)	
12. Nature of Payments (<i>Indicate total amount of payments accepted under 31 U.S.C. § 1353 for this employee and/or accompanying spouse in connection with this event.</i>) Total of Payments to Agency by Check \$ _____ Total of payments Provided in Kind \$ _____	
<div style="border: 1px solid black; background-color: #f4a460; padding: 5px; display: inline-block;">Print Form</div>	
13. Certification. The statements in this report are true, complete, and correct to the best of my knowledge and belief.	
_____ Employee's Signature	_____ Date
14. I have determined that this travel situation complies with the ethics conditions for acceptance of travel payments under 41 CFR 304-1.4.	
_____ Ethics Review (By Ethics Official)	_____ Date
15. Approval.	
_____ Supervisor's (or Authorizing Official's) Signature	_____ Title
_____ Date	

Form DI-1958
(Rev. Dec. 1998)

**ACCEPTANCE OF FREE ATTENDANCE AT WIDELY-ATTENDED EVENTS
DEPARTMENT OF THE INTERIOR**

This form is used to document approval for an employee to accept free attendance from a Prohibited Source at a widely-attended event. See back of this form for instructions.

Part A: To Be Completed By Employee

Name (please print)	Position Title
Name or Description of Event	Location of Event
Purpose of Event	Are you scheduled to be a speaker, panelist or exhibitor at this event?
Sponsor(s) of Event	Source of free attendance (if other than the sponsor)
Estimate value of your free attendance	Date(s) of Event

The information stated above is accurate to the best of my knowledge. I hereby request approval to attend the above stated event.

Employee's Signature: _____ Date: _____

Bureau/Office: _____

Part B: To Be Completed by the Agency Designee (See back of form for instructions)

I have approved this employee's request. I have determined that (check only one):

The event will be a widely attended gathering and the source of the employee's free attendance is the sponsor of the event. I have also determined that the above named employee will participate as a speaker, panelist or exhibitor at the event and will present information on behalf of the Department at the event.

The event will be a widely attended gathering and the source of the employee's free attendance is the sponsor of the event. I have also determined that the attendance of the above named employee at this event will be in the interest of the Department because it will further the Department's programs and operations.

The event will be a widely attended gathering and the source of the employee's free attendance is NOT the sponsor of the event. I have determined that the employee's free attendance is valued at \$250 or less, and more than 100 persons are expected to attend the gathering. I have also determined that the Department's interest in the employee's participation in the event outweighs the concern that acceptance of the gift of free attendance may or may appear to improperly influence the employee in the performance of his or her official duties.

Signature of Agency Designee: _____ Date: _____

Print Form

THIS FORM SHALL BE RETAINED BY THE EMPLOYEE**INSTRUCTIONS**

When should employees use Form DI-1958? Employees are encouraged to use this form to request and document approval to accept free attendance from a “prohibited source” at widely-attended events.

What is the policy on the acceptance of free attendance at widely-attended events? Generally, acceptance of free attendance from a “prohibited source” at a widely attended event is prohibited when the value of the free attendance exceeds \$20 per event. See 5 CFR 2635.201-205 and the definitions below. The only exceptions to this prohibition are stated on the front of this form. If none of the exceptions apply, the employee should not be granted approval to attend the event.

If approval is granted, attendance at the event shall be: (1) on the employee’s own time; (2) if authorized by the employee’s agency, on excused absence pursuant to applicable guidelines for granting such absence; or (3) without charge to the employee’s leave account. See 5 CFR 2635.204(g)(2).

What is a prohibited source? It is any person or organization who:

- (1) Is seeking official action by the employee's agency;
- (2) Does business or seeks to do business with the employee's agency;
- (3) Conducts activities regulated by the employee's agency;
- (4) Has interests that may be substantially affected by performance or nonperformance of the employee's official duties; or
- (5) Is an organization a majority of whose members are described in items (1) through (4).

In addition, the agency designee may determine that an individual or entity is a prohibited source based on a concern for the appearance of a conflict of interest. For example, an individual or organization that offers an employee free attendance solely because of the position the employee holds may be a prohibited source.

Prohibited source includes a professional, trade or business association, a majority of whose members are regulated by, or do, or seek to do business with the Department. The term also includes a foreign or domestic business, or a representative of such a business that is seeking a benefit or an action such as a contract, permit or license from the Department.

What is a widely attended event? It generally means a gathering consisting of a large number of persons who will bring a diversity of views or interests to the event.

Who is the agency designee? It means the employee’s immediate supervisor or the employee’s servicing ethics officer.

What does free attendance include? Free attendance may include waiver of all or part of a conference or other fee or the provision of food, refreshments, entertainment, instruction and materials furnished to all attendees as an integral part of the event. It does not include travel expenses, lodgings, entertainment collateral to the event, or meals taken other than in a group setting with all other attendees.

The information obtained from this form will be used to determine whether the filer is in compliance with the Government wide gift acceptance regulations governing free attendance at widely attended events (5 CFR 2635.204(g)). The general authority for collecting this information is contained in 5 CFR 2635.204(g)(3).