**Information Paper on Accepting a Gift of Travel Expenses under 5 USC § 4111**

1. The provision in the Executive Branch ethics regulation (5 CFR 2635.204(l)) on this subject reads as follows:

(l) Gifts accepted under specific statutory authority. The prohibitions on acceptance of gifts from outside sources contained in this subpart do not apply to any item, receipt of which is specifically authorized by statute. Gifts which may be received by an employee under the authority of specific statutes include, but are not limited to:

(1) Free attendance, course or meeting materials, transportation, lodgings, food and refreshments or reimbursements therefor incident to training or meetings when accepted by the employee under the authority of 5 U.S.C. § 4111 from an organization with tax-exempt status under 26 U.S.C. § 501(c)(3) or from a person to whom the prohibitions in 18 U.S.C. § 209 do not apply. The employee's acceptance must be approved by the agency in accordance with part 410 of this title [Title 5 of the CFR]….

Note: 26 U.S.C. § 501(c)(3) is authority for tax-exempt treatment of a limited class of nonprofit organizations, including those organized and operated for charitable, religious or educational purposes. Many nonprofit organizations are not exempt from taxation under this section.

2. 5 USC § 4111 is entitled “Acceptance of contributions, awards and other payments.” It reads as follows:

(a) To the extent authorized by regulation of the President, contributions and awards incident to training in non-Government facilities, and payment of travel, subsistence, and other expenses incident to attendance at meetings, may be made to and accepted by an employee, without regard to section [209](http://www.law.cornell.edu/uscode/html/uscode18/usc_sec_18_00000209----000-.html) of title [18](http://www.law.cornell.edu/uscode/html/uscode18/usc_sup_01_18.html), if the contributions, awards, and payments are made by an organization determined by the Secretary of the Treasury to be an organization described by section [501](http://www.law.cornell.edu/uscode/html/uscode26/usc_sec_26_00000501----000-.html) [(c)(3)](http://www.law.cornell.edu/uscode/html/uscode26/usc_sec_26_00000501----000-.html#c_3) of title [26](http://www.law.cornell.edu/uscode/html/uscode26/usc_sup_01_26.html) which is exempt from taxation under section [501](http://www.law.cornell.edu/uscode/html/uscode26/usc_sec_26_00000501----000-.html) [(a)](http://www.law.cornell.edu/uscode/html/uscode26/usc_sec_26_00000501----000-.html#a) of title [26](http://www.law.cornell.edu/uscode/html/uscode26/usc_sup_01_26.html).

(b) When a contribution, award, or payment, in cash or in kind, is made to an employee for travel, subsistence, or other expenses under subsection (a) of this section, an appropriate reduction, under regulations of the President, shall be made from payment by the Government to the employee for travel, subsistence, or other expenses incident to training in a non-Government facility or to attendance at a meeting.

3. Part 410 of Title 5 of the Code of Federal Regulations (CFR) is entitled “Training.” Below are three provisions from Part 410: 5 CFR 410.501, 5 CFR 410.502 and 5 CFR 410.503.

Section 410.501 - Scope.

(a) Section 4111 of title 5, United States Code, describes conditions for employee acceptance of contributions, awards, and payments made in connection with non-Government sponsored training or meetings which an employee attends while on duty or when the agency pays the training or meeting attendance expenses, in whole or in part.

(b) This subpart does not limit the authority of an agency head to establish procedures on the acceptance of contributions, awards, and payments in connection with any training and meetings that are outside the scope of this subpart in accordance with laws and regulations governing Government ethics and governing acceptance of travel reimbursements from non-Federal sources.

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Section 410.502 - Authority of the head of an agency.

(a) In writing, the head of an agency may authorize an agency employee to accept a contribution or award (in cash or in kind) incident to training or to accept payment (in cash or in kind) of travel, subsistence, and other expenses incident to attendance at meetings if

(1) The conditions specified in section 4111 of title 5, United States Code, are met; and

(2) In the judgment of the agency head, the following two conditions are met:

(i) The contribution, award, or payment is not a reward for services to the organization prior to the training or meeting; and

(ii) Acceptance of the contribution, award, or payment:

(A) Would not reflect unfavorably on the employee's ability to carry out official duties in a fair and objective manner;

(B) Would not compromise the honesty and integrity of Government programs or of Government employees and their official actions or decisions;

(C) Would be compatible with the Ethics in Government Act of 1978, as amended; and

(D) Would otherwise be proper and ethical for the employee concerned given the circumstances of the particular case.

(b) Delegation of authority. An agency head may delegate authority to authorize the acceptance of contributions, awards, and payments under this section. The designated official must ensure that--

(1) The policies of the agency head are reflected in each decision; and

(2) The circumstances of each case are fully evaluated under conditions set forth in Sec. 410.502(a).

(c) Acceptance of contributions, awards, and payments. An employee may accept a contribution, award, or payment (whether made in cash or in kind) that falls within the scope of this section only when he or she has specific written authorization.

(d) When more than one non-Government organization participates in making a single contribution, award, or payment, the “organization” referred to in this subsection is the one that:

(1) Selects the recipient; and

(2) Administers the funds from which the contribution, award, or payment is made.

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Section 410.503 - Records.

An agency shall maintain, in such form and manner as the agency head considers appropriate, the following records in connection with each contribution, awards, or payment made and accepted under authority of this section: The recipient's name; the organization's name; the amount and nature of the contribution, award, or payment and the purpose for which it is to be used; and a copy of the written authorization required by Sec. 410.502(a).

4. The Joint Ethics Regulation, DoD 5500.7-R, paragraph 4-102, reads as follows:

4‑102. Acceptance of Contributions, Awards and Other Payments by DoD Employees from Tax‑Exempt Organizations (5 U.S.C. 4111 (reference (g)))

a. Applicability. Military members are permitted to accept contributions, awards and other payments the same as civilian DoD employees in accordance with the requirements of this subsection, below.

b. Conditions for Acceptance. Except when acceptance is permitted under 5 C.F.R. 2635.204(d) (reference (h)) in subsection 2‑100 of this Regulation, DoD employees are permitted to accept contributions, awards and other payments directly from non‑Federal sources only when all of the following conditions are met:

(1) The source is a tax‑exempt organization described by 26 U.S.C. 501(c)(3) (reference (i)) or a State or local government (see 5 C.F.R. 410, Subpart G (reference (j)));

(2) The contribution, award, or payment of travel benefits is incidental to training in non‑Federal Government facilities or attendance at a meeting;

(3) An appropriate deduction is made from any payment by the Federal Government to the DoD employee for their official travel entitlement;

(4) The contribution, award, or payment is not a reward for services to the non‑Federal source;

(5) Acceptance of the contribution, award or payment would not reflect unfavorably on the DoD employee's ability to perform his duties in a fair and objective manner, nor otherwise compromise the integrity of any Federal Government action; and

(6) The travel approving authority approves the acceptance of the contribution, award or payment in writing.

c. Payments from Multiple Sources. When more than one organization participates in making a single contribution, award, or payment, only the organization that selects the recipient and administers the funds from which the contribution, award, or payment is made will be considered the source.

d. Reporting. Individuals who are required to file financial disclosure statements must report acceptance of these travel benefits on their financial disclosure statements if the fair market value of those benefits reach the reportable amount.

5. 18 USC § 209 states, in relevant part:

(a) Whoever receives any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

Whoever, whether an individual, partnership, association, corporation, or other organization pays, makes any contribution to, or in any way supplements, the salary of any such officer or employee under circumstances which would make its receipt a violation of this subsection—

Shall be subject to the penalties set forth in section [216](http://www.law.cornell.edu/uscode/html/uscode18/usc_sec_18_00000216----000-.html) of this title.

…

(d) This section does not prohibit payment or acceptance of contributions, awards, or other expenses under the terms of chapter [41](http://www.law.cornell.edu/uscode/html/uscode05/usc_sup_01_5_10_III_20_C_30_41.html) of title [5](http://www.law.cornell.edu/uscode/html/uscode05/usc_sup_01_5.html) [which includes 5 USC 4111].

Prepared by: Mark Stone, Lt Col, USAFR / Assistant Staff Judge Advocate / ASC/JA / 2 Apr 10

1 Encl Ethics Counselor/1-2373/0485

MEMORANDUM FOR RECORD

SUBJECT: Approval of the Acceptance of Travel Benefits Under 5 U.S.C. § 4111

1. Travel benefits have been offered by \_\_\_[DONOR]\_\_\_\_\_\_\_\_ to accommodate the participation of \_\_\_[TRAVELER]\_\_\_\_\_\_\_\_ in \_\_[EVENT]\_\_\_\_ on \_\_\_\_\_[DATE]\_\_\_\_\_\_\_\_\_\_\_ in [PLACE].

2. The Army employee will be traveling incident to training in non-Government facilities or attendance at a meeting and [the non-Federal source] has offered to pay for the following travel and related expenses which will be provided either in-kind or by check payable to the Army employee.

Dollar amount only

Round-trip air transportation

Other transportation (taxicab to and from hotel)

Overnight accommodations

Meals

Free attendance at event

Other (describe)

**\_\_\_\_\_\_ Total value of proffered travel and related expenses**

3. I have done a conflict of interests analysis taking into account such factors as the source of the gift, to whom it is offered, any matters that I know of before the Army concerning the source, and the nature of the employee’s involvement, if any, in the matter. I hereby determine that acceptance of these travel benefits would not cause a reasonable person with knowledge of all the relevant facts to question the integrity of the Army’s programs or operations and approve [employee’s name] accepting the above-described gift. I have also determined that:

a. The source is a tax exempt organization described by 26 U.S.C. 501(c)(3) or a State or local government (see 5 C.F.R. 410, Subpart G);

b. An appropriate deduction will be made from any payment by the Federal Government to the DoD employee for any official travel entitlement;

c. The contribution, award, or payment is not a reward for services to the non Federal source; and

d. Acceptance of the contribution, award or payment would not reflect unfavorably on the DoD employee's ability to perform his duties in a fair and objective manner, nor otherwise compromise the integrity of any Federal Government action.

4. I have reminded the employee that if s/he is an OGE 450 filer, s/he will need to disclose the travel benefits received as a gift if it exceeds the reportable amount.

5. This approval has been coordinated with the Ethics Counselor, AMEDDC&S and Fort Sam Houston.

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SUMMER BROWN-ELLIS

Commander, CPT, MS, CDR Travel Approval Authority

Coordination: Ethics Counselor, OSJA, AMEDDC&S and FSH

Concur \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Nonconcur \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_