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Travel and Transportation Policies

- General
- Travel Costs and Allowances
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General

Federal employee travel is governed by the Federal Travel Regulation (FTR) that is published in Chapters 300 through 304 of Title 41 of the Code of Federal Regulations. This regulation covers a wide range of subjects, and ranges from per diem rates to transportation allowances. All agencies and field activities maintain copies in their travel offices and it is available online at policyworks.gov/ftr.

The law (5 U.S.C. 5702) authorizes the General Services Administration to prescribe the worldwide subsistence reimbursement system in the FTR and to establish per diem and actual subsistence expenses rates for CONUS (the 48 contiguous states and the District of Columbia) travel. It also provides authority for reimbursement of certain travel expenses of employees who experience personal emergencies while on official travel and for payment of subsistence and transportation expenses for threatened law enforcement/investigative employees and their families who must occupy temporary living accommodations. The FTR establishes rules for when and how such payments should be made (subject to agency authorization and/or approval).

Employees having a question about their allowances and entitlements while on government travel should get in touch with their agency travel office. If someone in that office cannot answer the question, they may address the question to the GSA. Note: A direct call to GSA by an employee often results in only a partial answer, since agency policy often governs what an employee will receive.

Per diem rates for locations outside the CONUS are contained in the Maximum Travel Per Diem Allowances for Foreign Areas (MTPDA), published by the Department of State. These rates are updated monthly.

The Department of State has jurisdiction for foreign travel. The Department of Defense has responsibility for non-foreign travel (such as to Alaska, Hawaii and U.S. possessions and territories).

Federal Employee Charge Card—The 1998 Travel and Transportation Reform Act (P.L. 105-264) requires traveling federal workers to use government-issued cards, although agencies are allowed to exempt categories of employees and certain types of expenses from the requirement. Using the contractor-issued charge card, federal employees pay for routine travel expenses such as airplane tickets, hotels, and meals and then are billed for those expenses. Employees are reimbursed by their agencies

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for the allowable amounts of the charged expenses. The 1998 law places a greater burden on agencies to reimburse employees quickly but also allows agencies to obtain personal financial records and garnishee salaries when employees are late in paying the credit card bills for undisputed charges. The government's travel program—the Travel and Transportation Payment Expense control system—was developed to reduce cash accounts maintained by the agencies for travel advances. Under the charge card program, agencies also may authorize federal employee use of ATM services for cash withdrawal while traveling on official business.

Hotel and Motel Fire Safety Requirements—The Hotel and Motel Fire Safety Act of 1990 (P.L. 101-391) mandates that federal employees on travel must stay in public accommodations that adhere to certain safety requirements. The law also states that federally funded meetings and conferences cannot be held in properties that do not comply with the law. It is applicable to all places of public accommodation, and requires that such properties are equipped with:

- hard-wired, single-station smoke detectors in each guestroom in accordance with the National Fire Protection Association (NFPA) standard 72; and
- an automatic sprinkler system, with a sprinkler head in each guest room in compliance with NFPA standards 13 or 13R. Properties three stories or lower in height are exempt from the sprinkler requirement.

A listing of hotels and motels meeting those guidelines is at www.usfa.fema.gov/applications/hotel.

Military Housing—Public Law 96-527 requires Defense Department civilian employees on official travel to use "adequate" military housing for lodging whenever available. Employees who are in a travel status more than 50 percent of their time are exempted from this provision.

DoD Personnel—The Per Diem, Travel and Transportation Allowance Committee administers the Joint Travel Regulations for DoD civilian personnel, which set per diem, travel and transportation allowances, relocation allowances, and certain other allowances of DoD civilian employees. The committee's members are a Deputy Assistant Secretary for each of the DoD military departments and the Director of the National Oceanic and Atmospheric Administration (NOAA), the Commandant of the Coast Guard (USCG), and the Surgeon General.

With the exception of DoD civilian employees appointed under Section 625(d) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. §2385(d)), who are entitled to per diem, travel, and transportation allowances in accordance with Volume 6, State Department Foreign Affairs Manual (FAM), these regulations are the sole entitlement regulations for DoD components.

These rules, which in many ways mirror the GSA-set policies for other agencies, are online at www.dtic.mil/perdiem/trvlregs.html.

Contact Point—GSA's travel management policy office is at 1800 F St., N.W., Washington, D.C. 20405, or get information online by visiting www.gsa.gov and clicking "Travel on Government Business."

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Travel Costs and Allowances

It is general policy of the government that less-than-premium-class accommodations shall be used for all passenger transportation. Employees are furnished, or reimburse for costs of transportation by trains, planes, boats, etc., in connection with official travel. This reimbursement includes authorized costs of taxis, buses, or use of privately owned automobiles, etc., to and from carrier terminals and in some circumstances round-trip mileage between residence and office on the day of departure and day of return on official travel. Agencies may authorize rail service

when its use is advantageous to the government.

By Air—Employees must travel by coach-class unless their agency approves a higher class based on circumstances justifying their use. There are three classes recognized—"first-class," "premium class other than first class," and "coach."

By Train—The policy is about the same as for air travel above, except there are only three classes recognized—"coach," "business class" and "first-class."

In both air and train travel, agencies may authorize first-class travel at government expense "only when there is no reasonably available alternative, when exceptional security circumstances exist, or when the employee has a disability that makes first-class transportation accommodations necessary to accommodate the employee's disability." By ship: Travel by steamer is authorized only for the lowest class unless security reasons or disability makes a higher class necessary.

Other considerations concerning the class of travel are: (1) frequent traveler benefits gained while traveling on official business may not be used to upgrade to first-class air, although such mileage may continue to be used to upgrade to premium-class other than first-class, and (2) premium-class other than first-class may be allowed instead of a rest stop en route or a rest period at destination.

Conference Travel—Agencies must "exercise strict fiscal responsibility" when choosing a site to conduct a conference, especially if the site might be considered extravagant in the public eye. But if the agency can make the case that even though such a site may appear extravagant it still can save the government money, then the should "avail themselves of the opportunity to save costs in selecting a conference site." As provided under CFR 301-74, agencies may increase by 25 percent the per diem rate for conference travel.

Indirect Route Travel—A federal traveler must use noncontract fare service (that is a carrier not contracted by GSA to provide discounted tickets) for that portion of travel by indirect route which is for personal convenience. And the traveler may not use either a Government Transportation Request or a contractor-issued travel charge card to procure transportation for indirect route travel, except when that indirect travel is authorized at government expense.

All agencies, except DoD, shall follow the rules established in 41 CFR Part 301-10, which require the use of contract air carriers for official air travel between certain city pairs. DoD shall conform to the Joint Travel Regulations, Volume 2, regarding contract air carrier use.

Payment from a Non-Federal Source—As provided for in FTR Chapter 304, agencies may accept payment from a nonfederal source (or authorize an employee to accept the payment on behalf of the government) for the employee to attend a meeting or similar function which the employee has been authorized to attend in an official capacity on behalf of the employing agency. The policy extends to the employee's spouse who may accompany the employee as long as it's in the agency's interest. Rules published in the November 30, 2001 Federal Register allow reimbursement by a non-federal source for travel expenses of employees for speaking at events outside their official duties in circumstances similar to those for which reimbursement for speaking within their official duties is allowed.

Pre-employment Interview Travel—The law (5 U.S.C. 5706b), authorizes agencies to reimburse certain pre-employment interview travel expenses of interviewees. Reimbursable expenses include most of the expenses payable to a federal employee traveling on official business. Specific information is contained in Subpart C of Part 301-75 of the FTR.

Travel Expenses of Federal Employees with Disabilities—The FTR authorizes payment of certain additional travel expenses necessarily incurred by an employee as a result of the employee's disability. Reimbursable expenses include travel and transportation of an attendant; cost of specialized transportation to, from, and/or at

the temporary duty location; cost of specialized services provided by a commercial carrier; cost of baggage handling; and cost of transporting or renting a wheelchair.

Automobile Insurance in Foreign Areas—When an automobile is rented for official travel in foreign areas, employees may be reimbursed for the cost of collision damage waiver or collision damage insurance, when rental or leasing agency requirements, foreign statute, or legal procedures that could cause extreme difficulty to government employees involved in an accident make such insurance necessary.

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Travel Advances

Federal employees may receive travel advances for cash transaction expenses (i.e., expenses that as a general rule cannot be charged and must be paid using cash, a personal check, or travelers check). These include:

- meals and incidental expenses covered by the per diem allowance or actual expenses allowance;
- miscellaneous transportation expenses such as local transportation system and taxi fares; parking fees; ferry fees; bridge, road, and tunnel fees; and aircraft parking, landing, and tie-down fees;
- gasoline and other variable expenses covered by the mileage allowance for advantageous use of a privately owned automobile for official business; and
- other authorized miscellaneous expenses that cannot be charged using a government contractor-issued charge card and for which a cost can be estimated.

For non-cash transaction expenses (i.e., lodging, common carrier), employees may receive advances only in the following situations:

- the government contractor-issued charge card is not expected to be accepted;
- your agency has decided not to provide you a government contractor-issued individually billed travel card;
- your agency determines that use of a government contractor-issued individually billed travel card would not be feasible incident to a transfer, particularly a transfer to another agency; or
- financial hardship would be incurred.

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Frequent Traveler Benefits

Under Section 1116 of the National Defense Authorization Act for fiscal 2002 (P.L. 107-107), a federal traveler who receives a promotional item such as frequent flyer miles, upgrades, or access to carrier clubs or facilities received as a result of using travel or transportation services obtained at federal government expense, or accepted under section 1353 of title 31, United States Code, may retain the promotional item for personal use, if the promotional item is obtained under the same terms as those offered to the general public and at no additional cost to the federal government. This includes all benefits earned, including those earned before enactment of the act.

The act repealed Section 6008 of the Federal Acquisition Streamlining Act of 1994 (5 U.S.C. 5702 note; P.L. 103-355) that had previously prohibited personal retention of such promotional items. That policy also previously had been reflected in the Federal Travel Regulation at (41 CFR 301-53) and the Federal Property Management Regulations (41 CFR 101-25). GSA formally revised its rules in a Federal Register notice on April 12, 2002. Further information is in GSA Travel Advisory Number 5.

You may use frequent traveler benefits earned on official travel to obtain travel

*Personal miles
for 1st class
official mls - upgrade*

services for subsequent official travel assignments; however, you may also retain such benefits for your personal use, including upgrading to a higher class of service.

It is the responsibility of each traveler to communicate directly with a service provider to establish his/her frequent travel promotional benefits account. Any associated costs are to be paid by the traveler and are not a reimbursable expense.

You may not select a travel service provider based on whether it provides frequent traveler benefits. You must use the travel service provider for which your agency is a mandatory user. This includes contract passenger transportation services and travel management systems. You may not choose a travel service provider to gain frequent traveler benefits for personal use.

It is the policy of the government that employees generally must travel by coach class accommodations. However, you may upgrade your transportation class of service at your own expense. Therefore, as frequent traveler benefits may be retained for your personal use, you may use any frequent traveler benefits you have earned to upgrade your transportation class to premium service. The regulations governing upgrades to premium airline accommodations are at FTR §§ 301-10.123 and 301-10.124. Your agency cannot pay for any upgrades, unless you meet one of the exceptions in those regulations.

*JH Fed. Reg.
SACO Advisory*

A denied boarding benefit (e.g., cash, free ticket coupon) is not a promotional item given by an airline.

Travelers seeking further guidance should contact their supervisor or travel-approving official.

Tax Implications—Guidance issued by the IRS following the frequent traveler change (IRS Announcement 2002-18) said that although it may deem such benefits as taxable income in the future, it currently does not do so and that any change in policy would apply only prospectively. It noted, however, that such benefits may not be used for tax avoidance purposes, such as by converting them to cash or receiving compensation in the form of travel or other promotional benefits.

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Mileage Allowances

Generally, employees using privately-owned transportation when it is advantageous to the government in performing official business travel will be reimbursed as follows:

- 36.5 cents per mile for privately owned automobile;
- 97.5 cents per mile for privately owned airplane; and
- 28 cents per mile for privately owned motorcycle.

These rates typically change early in each calendar year; changes are posted online at www.gsa.gov/Portal/content/policies_content.jsp?contentOID=115105&contentType=1006&PMTT=1/. Additionally, parking fees; road, tunnel and bridge costs; and airplane parking, landing and tie-down fees may be authorized.

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Use of Government Vehicles

Federal law requires that government motor vehicles be used only for official purposes, as defined by each agency. If a government vehicle is used for other than official purposes, both the vehicle operator and anyone who authorizes or condones such use are subject to penalties ranging from a mandatory minimum suspension of one month without pay up to and including dismissal from government service.

Home to Work Transportation—By statute, certain federal officials are authorized home-to-work transportation, as are employees who meet certain statutory criteria as determined by their agency head. The federal officials authorized by statute are the President, the Vice-President, and other principal federal officials and their designees, as provided in 31 U.S.C. 1344(b)(1) through (b)(7).

Also, employees engaged in field work or faced with a clear and present danger, an emergency, or a compelling operational consideration may be authorized home-to-work transportation as determined by their agency head. No other employees are authorized home-to-work transportation. Determinations may be made in advance when the federal agency wants to have employees ready to respond to a clear and present danger, an emergency or a compelling operational consideration.

Agencies consider the following when making a determination to authorize home-to-work transportation for field work:

- the location of the employee's home in proximity to work and to the locations where non-TDY travel is required; and
- the use of home-to-work transportation for field work should be authorized only to the extent that such transportation will substantially increase the efficiency and economy of the government.

Examples of positions that may involve field work include, but are not limited to: quality assurance inspectors; construction inspectors; dairy inspectors; mine inspectors; meat inspectors; and medical officers on outpatient service. The assignment of an employee to such a position does not, of itself, entitle an employee to receive daily home-to-work transportation.

Situations may arise where, for cost or other reasons, it is in the government's interest to base a government passenger carrier at a government facility located near the employee's home or work rather than authorize the employee home-to-work transportation.

The comfort or convenience of an employee is not considered sufficient justification to authorize home-to-work transportation. Authorized employees may not use home-to-work transportation for other than official purposes. However, if your agency has prescribed rules for the incidental use of government vehicles (as provided in 31 U.S.C. note), you may use the vehicle in accordance with those rules in connection with an existing home-to-work authorization.

An employee authorized home-to-work transportation may share space in a government passenger carrier with other individuals, provided that the passenger carrier does not travel additional distances as a result and such sharing is consistent with his/her agency's policy. When an agency establishes its space sharing policy, the agency should consider its potential liability for and to those individuals. Home-to-work transportation does not extend to the employee's spouse, other relatives, or friends unless they travel with the employee from the same point of departure to the same destination, and this use is consistent with the agency's policy.

Use of Portable Phones—General Services Administration policy states that while individual agencies may set their own policies regarding the use of portable phones while driving in government-owned or -leased vehicles, in general they should:

- discourage the use of hand-held wireless phones by a driver while operating motor vehicles owned or leased by the federal government;
- provide a portable hands-free accessory or a hands-free car kit for government owned wireless phones; and
- educate employees on driving safely while using hands-free wireless phones.

Generally, federal employees are not exempt from state and local laws governing operation of a motor vehicle, including those restricting the use of wireless phones while driving.

Tobacco Use—The General Services Administration in 1993 barred the use of tobacco products in GSA fleet vehicles used by federal employees. In 2002 it issued a bulletin encouraging agencies to also prohibit the use of tobacco products in vehicles they own or lease, begin any needed discussions with employee unions and organizations to carry out such a policy and develop appropriate policy regarding disciplinary action to be taken against employees violating the prohibition. Many agencies already prohibited the use of tobacco products in their vehicles but previously there had been no government-wide guidance.

Seat Belts—Under Executive Order 13043 of April 16, 1997, each federal employee occupying any seating position of a motor vehicle on official business, whose seat is equipped with a seat belt, must have the seat belt properly fastened at all times when the vehicle is in motion.

Contact Point—GSA's federal vehicle policy division is at 1800 F St. NW, Rm. 1221, Washington, D.C. 20405-0002, phone (202) 208-7631, or get information online by visiting www.gsa.gov and clicking "Travel on Government Business."

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STANDARDS OF CONDUCT OFFICE

August 29, 1997

FACT SHEET

Acceptance of Payment from a Non-Federal Source for Travel Expenses While In Official Capacity

Section 1353 of title 5, *United States Code*, permits non-Federal sources, such as organizations, associations, or businesses, to pay the Government for the expenses of transportation, accommodations, and meals for Government officials and employees in their official capacities to attend meetings and similar functions such as conferences and symposia.

The law has been implemented by the General Services Administration (Federal Travel Regulation, 41 CFR Part 304-1), and DoD (DoD 5500.7-R (Joint Ethics Regulation, Chapter 4); The Joint Travel Regulation (JTR) for civilians and the Joint Federal Travel Regulation (JFTR) for members of the uniformed services). The requirements are summarized below:

Before payments for travel may be accepted from a non-Federal source, the travel approving authority must make the following determinations:

! Payment is for attendance at a **meeting or similar function**. This excludes events required to carry out an agency's statutory and regulatory functions. It also excludes promotional vendor training. The event need not be "widely attended."

! Payment is for travel related to the employee's official duties.

! Payment is from a non-Federal source that is not disqualified on conflict of interest grounds. A "conflicting source" of payments is a non-Federal organization that "has interests that may be substantially affected by the performance or nonperformance of the employee's duties." In this case, the official must determine that "the agency's interest in the employee's . . . attendance at or participation in the event outweighs concern that acceptance of the payment may or may reasonably appear to influence improperly the employee in the performance of his/her official duties."

! The travel is primarily for the benefit of the Government, not the organization paying for it.

These determinations must be made in writing. An example is attached. The acceptance of travel benefits must be approved by the employee's travel approving authority in advance.

Benefits in kind (e.g., plane tickets, prepaid hotel reservations) are preferred. **Cash may not be accepted by DoD employees.** If benefits are provided by reimbursement of expenses, checks must be made out by the non-Federal source to the U.S. Treasury or the DoD Component, not to the employee.

Reports:

Prior to acceptance of the benefits, the travel approving authority must approve the acceptance of the travel benefits. A model memorandum is included as Attachment 1. Please note that ethics counselor concurrence is required when the employee's official duties could effect the interests of the non-Federal source.

After the travel has been completed, if the value of the travel benefits exceed \$250, a report (Attachment 2) must be forwarded to the ethics counselor for inclusion in the semi-annual report to the Office of Government Ethics. The travel approving authority's findings, Attachment 1, must be included.

Since these travel benefits are provided to the Government, they should not be listed as gifts on financial disclosure documents (SF 278 or OGE Form 450) of the affected Government employee.

Please call me or the attorneys in the Standards of Conduct Office at (703) 695-3272, if you have any questions.

David W. Ream

Director

travel.ho

Attachments

date

MEMORANDUM FOR RECORD

SUBJECT: Acceptance of Travel Benefits Under 31 USC 1353

Travel benefits have been offered by non-Federal source's name to accommodate the participation of DoD employee's name in name of meeting or similar event on date of meeting in place of meeting. The DoD employee will be participating in an official capacity and travel benefits will be provided in kind or by check or similar instrument made payable to the "U.S. Treasury or DoD Component name". I make the following determination regarding acceptance of these travel benefits by this DoD Component:

Acceptance of these travel benefits would not cause a reasonable person with knowledge of all the relevant facts to question the integrity of the DoD Component's program or operations. I have considered any impact the performance or nonperformance of the DoD employee's official duties might have on the non-Federal source.

The acceptance of these travel benefits is approved. This memorandum has been coordinated with the Standards of Conduct Office.

Travel Approving Authority

Coordination: DoD SOCO

Concur _____

Nonconcur _____

Attachment 1

MEMORANDUM FOR: STANDARDS OF CONDUCT OFFICE, OFFICE OF GENERAL COUNSEL, DEPARTMENT OF DEFENSE

SUBJECT: Report of Payments for Travel Expenses from Non-Federal Source Pursuant to 31 U.S.C. ' 1353

Name:

Grade or Rank:

Duty Title:

Office Address:

Telephone:

Event:

Sponsor of Event:

Location of Event:

Date of Event:

Travel Dates:

Nature of Participation:

Non-Federal Source of Payment:

Nature of Payment:

Total Value of Benefits Received:

Attachment: 1353 Travel Approving Authority Determination

Attachment 2

INFORMATION PAPER

DAJASC

7 July 1997

SUBJECT: Use of FirstClass Airline Accommodations on Official Travel

1. PURPOSE: To provide information regarding official travel using firstclass airline accommodations.

2. FACTS:

a. The JTR and the JFTR were revised effective 29 October 1993, to reflect President Clinton's directive entitled "Government Fiscal Responsibility and Reducing Perquisites."

b. It is US Government policy that Federal employees on official business who use commercial air carriers for domestic and international travel shall use coachclass accommodations, with limited exceptions.

(1) Firstclass accommodations may be purchased with appropriated funds, with Secretary of the Army approval, when:

(a) No other reasonably available accommodations exist. "Reasonably available" means coachclass or premiumclass (other than firstclass) seats are available within 24 hours of proposed departure or arrival time. However, accommodations are not "reasonably available" if the employee will arrive at the duty site after the required reporting time, or depart earlier than the scheduled duty completion time.

(b) Travel by a disabled employee whose condition necessitates firstclass travel. This must be substantiated in writing by competent medical authority. An attendant, whose services are required en route, may also fly firstclass.

(c) Exceptional security circumstances. These include, but are not limited to, travel by agents in charge of protective details, couriers accompanying controlled pouches, and employees whose use of less than firstclass would endanger their lives or Government property.

(2) Premiumclass (other than firstclass), such as businessclass, may be used when:

(a) Regularly scheduled flights along the required route only provide premiumclass seats.

(b) No space is available in coach and travel is urgent and cannot be postponed.

(c) Travel involves an employee with a disability substantiated in writing by competent medical authority. An attendant may accompany him in premiumclass, if necessary.

(d) Security purposes or exceptional circumstances exist.

(e) When travel on a foreign flag carrier has been approved and the sanitation or health standards in coach are inadequate.

(f) When overall savings to the Government would result, such as avoidance of additional subsistence costs, overtime, or lost productive time incurred while waiting for available coach seats.

(g) When travel costs are paid by a nonfederal source and properly accepted under statutory authority. Payments from a nonfederal source may not be used for firstclass travel, only coach or premiumclass.

(h) When travel is in excess of 14 hours; however, it is Secretary of the Army policy is that such travel will not be routine, and must be fully justified, with a few exceptions (see subpara (j) below). When employees fly premiumclass, they are not authorized rest periods en route or upon arrival.

(i) Frequent flyer benefits earned on official travel may be used for accommodations upgrades to

premiumclass on future official travel, but not to firstclass.

(j) It is Secretary of the Army policy that three and four star general officers are authorized to travel in premiumclass (less than firstclass) while travelling overseas on official business. This authorization extends to the principal only.

c. The rules with respect to the use of frequent traveller benefits are:

(1) The preferred use of bonus miles and other such benefits earned on official travel continues to be the reduction of future official travel costs.

(2) For accomodations other than air line seats, (such car rentals or hotels) frequent flyer points earned on official travel may be used for upgrades.

d. "Onthespot" upgrades.

(1) Upgrades may be accepted if generally available to the public, all Federal employees, or all military members. They may not be accepted if offered because of a traveller's rank or official position.

(2) Military members should not accept upgrades to firstclass while travelling in uniform because of the potential for adverse public perceptions of extravagance.

e. A person travelling on TDY may use his or her own personal travel benefits or funds to upgrade to firstclass. Again, to avoid adverse public perceptions, upgrades to firstclass should not be done when travelling in uniform.

Mr. Novotne/DSN 2270921

Frequent Flyer Miles

& Other Travel-Related Benefits --**To Whom Do They Belong?**

by

Mr. Michael J. Wentink

Army Standards of Conduct Office

Office of The Judge Advocate General

(U)

I. Introduction

The Army Standards of Conduct Office has received many questions concerning the use of frequent flyer miles and related benefits received while on official Government temporary duty (TDY) orders. This is good, because the rules are not easy to understand; they are complicated (some would say Byzantine), and they are not always intuitive or logical. As a result, we encourage you to contact your Ethics Counselor to help resolve these issues. The purpose of the following article is to give you a basic understanding as to how to deal with these matters.

The travel industry is constantly coming up with innovative ideas to induce your business and create brand loyalty. For example, airlines give "mileage" that their customers can accumulate and use for free upgrades and tickets in the future. When you are "bumped" by an airline, you might receive a free overnight in a local hotel, meals and a coupon good for a free round-trip ticket; this "bump" might be voluntary or involuntary. When you pay your TDY expenses using your personal credit card, you might receive a rebate for each dollar charged, or you might be given a frequent flyer mile for each dollar charged.

However, by law and regulation, we must always have the best interests of the United States, our Service and the taxpayer in mind when conducting Government business; not how we can best benefit personally.

II. Frequent Flyer Miles

The mileage points received from an airline for traveling TDY on its aircraft belong to the U.S. Government. There are no exceptions. Even if the Government cannot use them (for example, you retire from Government service), you may not use them for your personal travel. You may not even donate them to a charity.

These mileage points can be used only in connection with official travel (*e.g.* TDY or official permanent change of station (PCS) travel). You may also use these mileage points if, after retirement, you are issued invitational travel orders for official travel. They may not be used for travel on permissive TDY or while on leave.

Department of Defense policy is to use mileage points to reduce the cost of future official TDY travel. However, you may also use them to upgrade your seat while on official TDY travel, but **not** to First Class. You may upgrade only to something less than First Class. If there are only two classes on the

flight, the higher class is considered First Class, no matter what it might be called, and you may not upgrade. If you use official TDY travel points to upgrade to business class for an overseas flight, but the first portion of your travel in the United States (e.g. from your origination point to the port of embarkation) has only two classes, you may not ride in the higher (first) class section during that portion of the trip.

It is not required, but recommended, that you maintain separate accounts for your personal travel benefits and those benefits earned while on official TDY travel. However, if you keep your personal and official miles in the same airline account, you must keep track of those that belong to you and the Government because the presumption is that all of the mileage belongs to the Government.

III. Upgrades to First Class Air

The rule set out in the Joint Travel Regulation (JTR) and Joint Federal Travel Regulation (JFTR) prohibits First Class air travel except in three narrowly construed situations. Secretary of the Army approval is required if any one of these exceptions is used. However, this does not mean that you may never upgrade yourself to fly First Class while on official Army travel. You may upgrade and fly First Class in the following situations:

- a. You may use your own Frequent Flyer benefits, earned while on **personal** travel, to upgrade to First Class.
- b. You may use your own funds to purchase an upgrade to First Class.
- c. You may accept an on-the-spot upgrade that is **not** being offered because of your grade or position, but to anyone under the circumstances (for example, you arrive late and the aircraft is full except for a First Class seat which you are offered).
- d. You may use a coupon that you received because you are a member of an airline "club" by virtue of the number of miles that you have flown with the airline, even if some or all were flown on TDY. However, this must be a "no cost" upgrade, meaning that you did not "cash in" official mileage points to gain membership to the club, or exchange official points for the coupon.

If traveling in first class in one of the above situations, to avoid inappropriate appearances, military personnel should not travel in uniform.

IV. Gifts Received When "Bumped"

If you are "bumped" from a flight, or there is some other delay, the airline might provide you with a room for the night, your meals, and a coupon for a round-trip ticket anyplace in the United States. All such benefits belong to the Government. Your TDY claim should reflect no cost for the hotel room and your *per diem* should be reduced accordingly for the meals provided. The coupon for a round-trip ticket can only be used for future Government travel. Similarly, if your flight is delayed for five hours and the airline gives each of the inconvenienced passengers a coupon for a free flight, that coupon also belongs to the Government.

However, if you **volunteered** to be "bumped" and received these benefits, they belong to **you**. Your delay, however, must not interfere with your mission, nor should the Government incur any additional costs because of your delay. You are considered to be on your own time, and your travel claim must reflect this personal time.

V. Credit Cards

Numerous credit card plans offer cash rebates, discounts on future purchases, and even airline mileage points, all calculated by how much you charge. If you use your personal credit card while on TDY to charge your meals, hotel rooms, and even travel tickets, the benefits extended to you by your credit card company belong to you. For example, if you have a VISA card that is affiliated with United Airlines, and if you buy a \$500 ticket for a TDY flight on United Airlines, you receive 500 miles from VISA credited to your United Airlines account. Those 500 miles belong to you. However, the 2,000 miles that are credited to your account for the 2,000 miles that you fly on that ticket belong to the Government.

VI. Conclusion.

Some of the rules concerning the use of frequent traveller benefits are easy to understand, *e.g.*, frequent flyer miles earned while on TDY belong to the Government. However, there are many permutations in this area, especially with so many different marketing schemes constantly being developed by the travel industry. Accordingly, you are encouraged to seek the advice of your Ethics Counselor.

Gifts of Travel and Related Expenses!

Are They Legal?

Sometimes.

by

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Army Standards of Conduct Office

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It happens all the time. Some non-Federal entity (NFE) wants you to attend, maybe even speak at or otherwise participate in, a meeting, seminar, symposium, or training or other similar event. The invitation usually comes from a not-for-profit association, but not always; it could come from any source, even a foreign government. You, your boss, or your public affairs officer think that it makes eminent sense, and that there would be a direct and substantial benefit to the Army for you to attend. Alas, there are no travel funds. But, never mind, the NFE wants you to attend bad enough, that it offers to pay your way! Is this legal? Maybe.

It is a fundamental principle of fiscal law that it is illegal to supplement the monies that Congress has appropriated for the Army. But, there are exceptions authorized by Congress. One of these exceptions is 31 U.S.C. § 1353 which, under certain limited circumstances, permits acceptance by an Army traveler of **unsolicited** gifts of official travel expenses from NFEs. The law and implementing regulations are quite specific as to what can be accepted, and under what circumstances. Acceptance is subject to prior approval and may generate reporting requirements. It is important that both the law and regulation are understood to avoid embarrassment to the Army or the traveler.

What Kind of Events May be Paid For by a NFE?

The travel must be to a "meeting or similar function," which is defined as a conference, seminar, speaking engagement, training course, or similar event that takes place away from the employee's official station. What is more important is what it does **NOT** include. It does **NOT** include travel and meetings for carrying out the Army's statutory and regulatory functions, such as investigations, inspections, audits, and site visits. It also does **NOT** include travel to promotional vendor training or other meetings held for the primary purpose of marketing the NFE's products.

Examples:

It would be permissible for a senior officer or employee to accept a gift of free travel to and attendance at a symposium sponsored by a professional organization concerning issues of significant Army interest. However, if the officer would normally be accompanied by an aide, free travel may not also be accepted for the aide because the purpose of the aide's travel is not to attend a meeting or similar function, but to perform his or her duties as an aide.

It would be permissible for an Army expert in battlefield digitization to accept free travel to and attendance at a seminar where the expert will speak and participate in a panel discussion. However, it would not be permissible for an officer from the Army Judge Advocate General's School to accept free transportation from the Reserve Officers Association to attend and teach at a reserve on-site training weekend, because this is part of the mission and functions of the Army JAG School.

It would be is permissible to accept free attendance at a formal "gala" (nonpolitical) event downtown (off the installation) to honor an historical military event and its participants. But, it probably would not be permissible to accept this free attendance if the event is a fund-raiser. Such events generally lack the requisite significant and direct Army interest for Army employees to attend a fund-raiser in their official capacities. This restriction is based on the rule that we may not officially participate in or endorse fund-raising with a few notable exceptions like the Combined Federal Campaign and the Army Emergency Relief.

However (read closely, this will get a bit complicated) if you were to give an OFFICIAL speech for the Army at the fund-raising event, you are deemed not to be participating in the fund-raiser and could accept the offer of free attendance. This is permissible because the Office of Government Ethics (OGE) has determined that such free attendance on the day that you speak on behalf of the Army is not a gift to you or the Army. Finally, if it is a fund-raiser, but you are not giving an Army speech, you still might be able to accept the gift of free attendance and attend in your personal and private capacity, IF the event could be considered a widely attended gathering (a large and diverse group), and your agency designee (supervisor) determines that there is an "agency interest" in your attendance. But, in such a case, you may only accept the offer of free admission. You may not accept any actual travel expenses (i.e., transportation and lodging expenses), nor may you submit a travel voucher for such expenses since you attended in your personal and private capacity.

What Approval is Required?

Before an Army employee may accept an offer of free travel and related expenses to a meeting or similar function, two things must happen. First, the usual determinations and approvals must be obtained for the employee's official travel to and participation in the event. Like with any other situation, the duty assigned to the employee must be appropriate and the official travel must result in significant and direct benefit to the Army. Otherwise, the employee participates on his or her own time at his or her own expense. If there is some Army interest, however, the employee may be able to participate while on permissive TDY or other administrative absence, but the employee still must travel at his or her own

expense (*i.e.*, 31 U.S.C. § 1353 does not apply). The employee should obtain the advice of his or her ethics counselor to determine whether he or she may accept this personal gift of free attendance in a private capacity.

Once the determination has been made to have the employee attend, participate and travel in his or her official capacity, the travel approving authority must authorize in writing the acceptance of the gift of free travel on behalf of the Army. The approval authority must first do a "conflict of interest analysis" and obtain the concurrence of his or her ethics counselor.

The "conflict of interest analysis" is an examination of the facts and circumstances surrounding the offer of travel and related expenses, to include who is making the offer, to whom is the offer being made, whether there is some official or private relationship between the two, and the nature and significance of any issues before the Army affecting the offeror at the time. This analysis must result in the approval authority's determination that acceptance of the travel under the circumstances would not cause a reasonable person with knowledge of the relevant facts to question the integrity of agency programs or operations; if not, the acceptance may not be approved. For example, it would be inappropriate to approve the acceptance of a gift of travel offered by a competing contractor on a procurement for which the Army official is a member of the source selection evaluation board.

Officers or employees who are their own travel approving authority may approve their own acceptance of such offers of travel and related expenses, but it also must be in writing and have the concurrence of their ethics counselor. The concurrence of the ethics counselor is required by regulation. It must be obtained before the travel commences.

If your spouse is invited to attend the event with you, his or her attendance may be approved by your travel approving authority if his or her presence at the event is in the interest of the Army. However, if the invitation includes air travel or overnight accommodations for the spouse, his or her travel must be approved by the Secretary of the Army.

Finally, if the Army traveler will actually support the event, such as being one of the symposium speakers or chairing a panel discussion, the head of the employee's organization needs to make the decision that this support is appropriate in accordance with the DOD Joint Ethics Regulation (JER), DOD 5500.7-R, paragraph 3-211. For example, DOD does not permit appropriated fund support to an event where an admission fee is charged beyond what will cover the reasonable costs of sponsoring the event.

III. What Reporting Requirements?

You may only accept payments in-kind or by a check or similar instrument payable to the Department of the Army. You may not accept cash or a check payable to you.

If the value of the payments from the non-Federal source exceeds \$250 for you, or for you and your spouse combined, you must submit a report through your Ethics Counselor to the Army Standards of Conduct Office (SOCO). The requirements for the report are set out in the Joint Travel Regulation and Joint Federal Travel Regulation. Twice a year, Army SOCO forwards all the Army reports to OGE where they become available for public inspection.

Conclusion.

Any offer of free travel to, or free attendance at, an event from a non-Federal source requires approvals

before it can be accepted, *if* it can be accepted. In addition, the concurrence of your ethics counselor is also required. Accordingly, if you receive such an offer and would like to accept it, see your ethics counselor FIRST!

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Long-Distance Phone Calls Home While TDY FAQs

Q1 - Will I be reimbursed for long distance telephone calls home while on temporary duty (TDY)?

A1 - A uniformed members or civilian employees on temporary duty may be reimbursed for long-distance telephone calls home if reimbursement is authorized on the TDY orders or approved on the voucher. These calls must only be to:

- (a) advise of your safe arrival,
- (b) inform or inquire about medical conditions, and/or
- (c) advise regarding travel itinerary changes.

Q2 - Must the authorization for reimbursement of long distance telephone calls home be included in the travel order?

A2 - No, but it is recommended that TDY travel orders include an authorization for reimbursement of long-distance telephone calls as well as a dollar limit on reimbursement (if any) so that travelers are aware of any limits in advance.

Q3 - If reimbursement for long distance telephone calls home was not authorized on my orders can I still be reimbursed?

A3 - Yes, reimbursement for long-distance telephone calls may be approved on your voucher by the authorizing/order-issuing official for the temporary duty.

Q4 - Where may I find regulations about long distance telephone calls home while on TDY?

A4 - Uniformed members see JFTR, par. U4505 and civilian employees see JTR, par. C4706.

GSA Board of Contract Appeals (GSBCA) decision 14554-TRAV, August 18, 1998 provides additional information concerning reimbursement for telephone calls.



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**ALERT: LOWER-CLASS ACCOMMODATIONS ARE NOT REASONABLY AVAILABLE -
- USE OF FIRST-CLASS TRAVEL**

Using Government funds to pay for premium-class travel (first and business) is strictly forbidden except under certain circumstances. Exceptions for the use of Premium-class travel at Government expense are addressed in the

Joint Federal Travel Regulations, Volume 1 (JFTR)
Joint Travel Regulations, Volume 2 (JTR)

Each delegated approval authority must report use of ALL premium-class travel. See JFTR/JTR, Appendix H for document requirement/procedures.

See JFTR/JTR, Appendix H, Part III, Section A for all business-class accommodation reasons for travel.

Reference JTR, par. C2204-B3a and JFTR, par. U3125-B3a.

Travelers should plan travel with sufficient time to reserve coach-class accommodations. The same amount of planning and cost consideration should be made for Government travel as would be made if the traveler were paying personal funds. There may be times when lower-class accommodations are not reasonably available.

“Reasonably available” means that other than first-class accommodations are available on an airline scheduled to leave within 24 hours of the traveler’s departure time, and scheduled to arrive within 24 hours before the traveler’s anticipated arrival time. This does not include a scheduled departure time earlier than 24 hours from the required reporting time at a duty site, or a scheduled departure time earlier than the time the traveler is scheduled to complete duty.

If this reason is used for first-class travel the authorizing officer must cause the travel order/authorization to clearly show when TDY travel was first identified, when the travel reservations were made, and the cost difference between coach-class and first-class accommodations.

“Not reasonably available” does *not apply* during official travel involving Permanent Change of Station (PCS), Renewal Agreement Travel (RAT), Consecutive Overseas Tour (COT) leave, emergency leave (uniformed personnel), emergency visitation (EVT) and family visitation (FVT) (for civilian personnel), Rest and Recuperation (R&R), Funded Environmental and Morale Leave (FEML), or personnel evacuation and flights over 14 hours in duration, since arrival time/reporting time in these cases is not mission critical.

DOD PREMIUM CLASS TRAVEL REQUIREMENTS

JUSTIFICATION FOR THE USE OF PREMIUM CLASS TRAVEL

- **It is Government policy that coach (economy) class travel accommodations will be used for all passenger transportation modes for all official government travel.**
- Premium class travel will only be permitted on an exception basis, when fully justified and approved by the appropriate premium class approval authority, and only for the situations contained in the Joint Federal Travel Regulations (JFTR) and Joint Travel Regulations (JTR).
- Premium class accommodations must be made and authorized in advance of the actual travel unless extenuating circumstances or emergency situations make advance authorizations impossible. If approval is not subsequently obtained, the traveler is responsible for the cost difference.
- **Blanket authorization and justification for use of premium class travel are prohibited.**
- **A major policy change is the justification for flights over 14 hours. These flights do not automatically qualify for use of premium class travel. The traveler must make every effort to schedule his/her travel so he/she has a rest period prior to starting work. A rest period either enroute or at the TDY destination negates use of premium class travel. Premium class travel should be the exception, not the rule, for flights over 14 hours.**

APPROVAL LEVELS

- Officials who may authorize/approve premium class accommodations:
 - First Class:
 - Office of the Secretary of Defense and Defense Agencies: Executive Secretary, with no further delegation.
 - Military Departments: The Secretaries of the Military Departments. Approval authority may be re-delegated to Under Secretaries, Service Chiefs or their Vice and/or Deputy Chiefs of Staff, and four-star major commanders or their three-star vice and/or deputy commanders, and no further.
 - Joint Staff and Combatant Commands: Director, Joint Staff, or as delegated. Re-delegation may be no lower than to the three-star major commanders.
 - Business Class:
 - Officials with authority to authorize/approve first class accommodations, as shown above, are also business class authorization/approval authorities. The business class authorization/approval may be delegated but to no lower than general/flag officers at the two-star level or their civilian equivalents.

Premium class approving officials may not approve their own premium class travel. They must obtain approval from their reporting senior flag officer or civilian equivalent. Approval must be by someone senior to the traveler.

DOCUMENTATION REQUIREMENTS

The approval for premium class travel must be documented by placing a statement on the travel authorization/order that states, at a minimum, the following:

- The class of premium class travel approved, business or first class.
- The Name, Rank and Office Symbol of the approving official.
- The specific paragraph reference in the JTR or JFTR used to justify the premium class travel for the upgrade, which includes specific reference to the condition(s) met from the JTR/JFTR.
- The coach fare and upgraded fare for the premium class portions of the trip.
- Documents used for the approval of this premium class travel are on file in the office of the premium class approval official.

ENFORCEMENT PROVISIONS

- Commanders must ensure that travel offices and CTOs will not issue premium class tickets without the required approval being part of the travel authorization.
- In the event premium class tickets are issued in the absence of proper approval documentation, the traveler is responsible for the excess cost.

REPORTING PROCEDURES/MANAGEMENT OVERSIGHT

- All Department of Defense Components will be required to submit semiannual reports to OUSD(P&R). The report will be due NLT than 30 April and 31 October. Additionally, all Department of Defense components are required to track the use of premium class travel, and will maintain applicable documentation for 6 years and 3 months. At a minimum, the following data must be captured and reported by each premium travel approving official:
 - Total number of premium class trips authorized during the given timeframe broken down by class of service.
 - Total cost to the government of those trips approved.
 - Name, grade and unit of traveler.
 - Approval official.
 - Class of service authorized.
 - Mode of travel (i.e., air, ship, train).
 - Dates of travel.
 - Origin and destination of each leg of the portion of a trip involving premium class travel.
 - Specific purpose of travel and corresponding condition(s) met in the JTR/JFTR.
 - Coach and premium class fares for each portion of a trip involving premium class travel.