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| **dod_seal** | **U.S. Department of Defense****Standards of Conduct Office** |

**EVENT ATTENDANCE & SPEAKING REQUESTS**

General Rule: Employees generally may not accept gifts ***from non-Federal entities***, including free attendance, offered because of their official position or offered by a person or organization that seeks official action or business with the employee’s agency, is regulated by the employee’s agency, or has interests that could be substantially affected by the performance or nonperformance of the employee’s official duties. However, there are exceptions, and this handout provides the process for determining whether an invitation meets one of those exceptions and if applicable, the required approval processes. Note that there are three documents attached that may require completion:

 TAB A: Fact sheets on:

1. The Widely Attended Gatherings (WAG) Exception to the general prohibition on accepting certain gifts; and
2. Acceptance of Travel & Related Expenses from Non-Federal Sources on behalf of the Department.

TAB B: Screening Questions and Event Attendance Information Questionnaire – The screening questions in Section I should be used as a tool to determine whether or not to complete and submit an event attendance request. The Questionnaire in Section II should be completed by the event host/POC and is designed to ensure that supervisors and ethics officials have sufficient information to determine whether the offer of free attendance can be accepted.

TAB C: Approval memorandum template (must be customized for authorization to accept free attendance to a Widely Attended Gathering (WAG). This memorandum must be signed by the supervisor (or other official above the attendee in the chain of command) and forwarded, along with the completed questionnaire and a copy of the invitation, to an ethics official for review. ***For PAS officials and military officers in the grade of O-7 or above who are in command, the ethics official will complete the memorandum at TAB C.*** ***Requests should be submitted at least 10 working days before the event.***

TAB D: Memorandum and Report of Payments for Travel Benefits from a Non-Federal Source under 31 U.S.C. § 1353 for use if the host has offered to pay for all or some portion of the travel expenses for the invitee to attend a meeting or similar event in an official capacity. The Memorandum must be customized and completed by the travel approving authority. An updated Report of Payments must be submitted to SOCO within 5 days of completion of travel if the actual amounts differ from the amounts originally submitted. ***Requests should be submitted at least 10 working days before travel commences.***

* **OSD Personnel Only**: Requests must be sent via email to osd.soco@mail.mil.
* **All Other DoD Personnel:** Contact the ethics official(s) via your organization’s legal office.

**TAB A**

**FACT SHEETS:**

**WAG & TRAVEL PAYMENTS**

**FACT SHEETS:**

1. **Widely Attended Gatherings (WAGs) Exception**:

A common exception to the general gift prohibitions exists for certain widely-attended events. In order to use this exception, an employee must obtain written approval prior to accepting the offer. (5 C.F.R. § 2635.204(g)(1) & (3)). In most cases, approval may be given by the employee’s supervisor, after consultation with an ethics official. The approval must include a written determination that the agency has an interest in the employee's attendance, and that this interest outweighs any concern the employee may be, or may appear to be, improperly influenced in the performance of official duties.

* Agency Designee: The written determination discussed above must be made by a supervisor who is a commissioned military officer or a civilian (not a contractor) above GS-11 and in the chain of command or supervision of the DoD employee invited to attend the event. The Agency Designee must consult with their ethics official*. For any military officer in the grade O-7 or above who is in command, and any civilian Presidential appointee confirmed by the Senate, the Agency Designee is the ethics official*. (JER 1-202, DoD 5500.7-R)
* Political Appointees - Additional Restrictions Apply! For PAS, non-career SES, and Schedule C employees, the President’s Ethics Pledge (E.O. 13770) signed by all political appointees prohibits accepting gifts from registered lobbyists or lobbying organizations, with limited exceptions.
* Criteria for Approval (5 C.F.R. 2635.204(g)(3)): The agency designee must find that:

(1) The event is a widely-attended gathering. That is, a large number of persons, with a diversity of views or interests, are expected to be present; and, there will be an opportunity to exchange ideas and views with other attendees (5 C.F.R. 2635.204(g)(2)); and

(2) The employee's attendance at the event is in the agency's interest because it will further agency programs or operations; and

(3) The agency's interest in the employee's attendance outweighs concerns the employee may be, or may appear to be, improperly influenced in the performance of official duties; and

(4) If a person other than the host of the event invites or designates the employee as an invitee, and bears the cost of that gift; the event is expected to be attended by more than 100 persons, and the value of the gift of free attendance does not exceed $480.

* Relevant Factors – Agency Interest (5 C.F.R. 2635.204(g)(4)): In determining whether the agency's interest in the employee's attendance outweighs the concern that the employee may be, or may appear to be, improperly influenced in the performance of official duties, the agency designee may consider relevant factors, including:
1. The importance of the event to the agency;
2. The nature and sensitivity of any pending matter affecting the interests of the person who extended the invitation and the significance of the employee's role in any such matter;
3. The purpose of the event;
4. The identity of other expected participants;
5. Whether acceptance would reasonably create the appearance that the donor is receiving preferential treatment;
6. Whether the Government is also providing [or would provide] persons with views or interests that differ from those of the donor with access to the Government; and
7. The market value of the gift of free attendance.
* Accompanying spouse or other guest (5 C.F.R. 2635.204(g)(6)): When others in attendance will generally be accompanied by a spouse or other guest, and the invitation is from the same person who invited the employee, the agency designee may authorize an employee to accept an unsolicited invitation to an accompanying spouse or one other accompanying guest to participate in all or a portion of the event. This authorization must be in writing.
* Important Notes:
1. Attendance using the WAG exception is always in a personal capacity, notwithstanding the agency interest determination. TDY funds may NOT be used to send an employee to a WAG. An employee already TDY for other purposes, may use the WAG exception to attend an ancillary event at the TDY location.
2. Because free attendance using the WAG exception is in a personal capacity, the value of free attendance for the employee and personal guest(s) are considered gifts to the employee and must be reported on the employee’s next financial disclosure report if the total exceeds the reportable threshold.
3. **Section 1353 of Title 31 U.S. Code – Acceptance of Travel from NFEs:**
* **Authority**: The General Services Administration implemented this statutory authority in the Federal Travel Regulation (41 C.F.R. Part 304-1) which DoD must follow. Additional guidance may be found in the Joint Ethics Regulation, Chapter 4 (DoD 5500.07-R), and the Joint Travel Regulations, sections 0206 and 0302.
* **Acceptance of Travel Benefits**: In order to accept travel benefits under this authority, the travel approving authority must make the following written determinations:

1. Payment is limited to the actual cost to attend a meeting, conference, seminar, speaking engagement, symposium, training course, or receipt of an award or honorary degree related to the employee’s official duties.

1. Section 1353 does not permit acceptance of payments for promotional vendor training

 or other events in which the primary purpose is marketing the non-Federal

 source's products or services.

1. Section 1353 does not permit acceptance of payments for events that are essential or

 required to carry out an agency’s statutory and regulatory functions, such as

 inspections, audits, site visits, or negotiations.

2. Payment is limited to necessary travel expenses, to include conference registration fees, related to the employee’s official duties at an event that is outside of the employee’s PDS.

1. The PDS is defined as an employee or service member’s official station or permanent workplace. A PDS area’s geographic boundary is the corporate limits of the city or town where the PDS is located. If the PDS is not in an incorporated city or town, then the boundary is the subdivision, station, or other established area.
2. The PDS for the Pentagon is Arlington County, Virginia, even though the Pentagon has a Washington, D.C. mailing address.
3. Local travel authorizations are not required.

3. Payments or benefits offered by a non-Federal source must be limited by qualifying acceptance to attend only a portion of the function that is deemed to be in the Government’s interest.

4. Payment may be accepted only from a non-Federal source that is not disqualified because of a conflict of interest. The travel approving authority must review the circumstances to determine that acceptance would not cause a reasonable person with knowledge of all the relevant facts to question the integrity of the Government’s programs or operations. This consideration should include:

1. the identity of the non-Federal source;
2. the purpose of the meeting;
3. the identity of other expected participants;
4. the monetary value and character of the travel benefits;
5. whether there is any matter pending at their DoD component that may affect the

 interest of the non-Federal source, and if so its nature and sensitivity and the

 significance (if any) of the proposed traveler's role in the matter; and

1. any impact the performance or nonperformance of the traveler’s official duties might

 have on the non-Federal source.

5. Premium travel (i.e. other than economy or coach-class tickets) offered by the non-Federal entity was: (1) comparable in value to those offered to similarly situated meeting attendees; and (2) approved in accordance with DoD’s procedures for the use of such benefits (see 41 CFR §§§ 301-10.123, 301-10.162, and 301-10.183). See also Chapter 2, paragraph 020206 and Table 2-5, Joint Travel Regulations.

**TAB B**

**SCREENING & QUESTIONNAIRE**

 **Event Attendance & Speaking**

**SECTION 1: SCREENING**

Screening Questions: Responses will determine whether to submit an opinion request. Please contact an ethics official with any questions. ***Screening should be completed by invitee/immediate staff.***

A. Does invitee’s schedule permit attendance ***AND*** has the invitee indicated they want to attend?

* **NO**  ***STOP*!**

To avoid waste of Government resources, do not request a legal opinion until/unless the invitee has determined that they are available and would like to attend.

* **YES**  (***Continue to******QUESTION B****.)*

B. Is the event free **AND** open to the public or to **ALL** civilian and military personnel (*vice invitation only*)?

* **YES**  ***STOP*!**

The offer of free attendance is not considered a gift and a legal opinion is not required***.***

* + ***If attending in official capacity,*** supervisor/leader approval is required.
	+ ***If attending in personal capacity,*** no approval is required.
	+ ***If speaking or presenting,*** other ethics issues may require an opinion (e.g., speaker gifts, receptions/meals that are not part of the main event and not free and open to all. Additionally, a PAO and security review of speaking materials may be required.
	+ Invitees should retain the completed copy of this page and documentation that attendance is free and open for their files.
* **NO**  (***Continue to QUESTION C.***)

C. Has the invitee been asked to speak/present in their official capacity on behalf of DoD?

* **YES** - ***AND only*** attending on dates speaking or presenting:
	+ ***Ethics opinion & Section II Questionnaire NOT required.***
		- On any date the invitee is speaking/presenting in an official capacity, the offer of free attendance, including meals/refreshments available to all attendees at no additional charge, is not a gift. If you will only attend on the date you are officially speaking and no other gifts are being offered, then you do not need an ethics review, except as discussed below.
	+ ***Ethics review & Section II Questionnaire IS required if:***
		- The event is primarily intended to promote/discuss the host’s products/services;
		- The audience is limited to only clients/customers/employees of the host;
		- Gifts or ancillary receptions/meals not part of the main event and not free and open to all main event attendees are being offered;
		- The entity is offering to pay travel expenses ***(****complete TAB D and submit to ethics official* ***BEFORE*** *traveling****).***
	+ Note: a PAO and security review of speaking materials may be required.
* **YES -** ***BUT also*** attending on dates not speaking or presenting:

***Complete Section II and submit to ethics official. TAB C may also be required.***

* **NO**

***Complete Section II and TAB C and submit to ethics official.***

**SECTION II: FREE ATTENDANCE & SPEAKING QUESTIONNAIRE**

*Note:* ***The Questionnaire should be completed by the non-Federal entity event host/POC.*** *All items must be completed, unless otherwise indicated.* ***The completed document should be sent to the ethics official along with the customized memo.***

1. Name of Invitee(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. Name of the event: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. Host(s) or organizer(s) of the event (who “owns” the event):

* Name of Entity: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* Name of POC: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* E-mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* Event website: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\* NOTES:

1. *If the host or co-host is a Federal entity, you do not need an ethics opinion.*
2. *If the entity hosting and paying for the event is a foreign government, do not complete the WAG memo at TAB C.*

4. Dates & Speaking:

* Date(s) of the event: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* Is the Invitee speaking in an official capacity (Y/N) \_\_\_\_\_.

If Yes, provide:

* + Date(s) invitee will speak/present in an official capacity (*if applicable*): \_\_\_\_\_\_\_
	+ Will invitee attend on days other than a date they are speaking/presenting? (Y/N) \_\_\_\_
		- * If yes, which days? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
	+ Do DoD personnel represent more than 20% of the total presenters? (Y/N) \_\_\_\_
		- * If Yes, what percentage of presenters are DoD personnel? \_\_\_\_\_\_\_\_
* What is the highest fee charged to any attendee: $\_\_\_\_\_\_
* Is the entity offering to pay for any travel expenses? (Y/N) \_\_\_\_\_

5. Location of the event: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (*Note – WAG attendance is in a personal capacity, and therefore, TDY funds are not available for travel solely to attend a WAG event. Where an employee will already be TDY for official business, the employee may attend an ancillary event at the TDY location using the WAG exception, if approved in advance and no additional cost to Government).*

6. Nature and purpose of the event: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

7. Approximate total number of attendees: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

8. Attendee Information:

a. Are attendees limited to only clients/customers/employees of the host? (Y/N) \_\_\_\_

b. Identify general categories of attendees at the event: (*Check all that apply*)

* Federal Executive Branch\_\_\_
* DoD\_\_\_
* Non-DoD\_\_\_
* State or local Government\_\_\_
* Academia\_\_\_
* Industry\_\_\_ Approximately how many different companies? \_\_\_
* Legislative Branch\_\_\_
* Other (describe)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

9. Is an entity other than the event host paying the cost for DoD invitees? (Y/N) \_\_\_\_

* If Yes, provide:
	+ Name of entity paying: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
	+ Names of the DoD invitees it will pay for: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

10. Is an entity other than the host designating the DoD invitees? (Y/N) \_\_\_\_

* If Yes, provide:
	+ Name of entity designating invitees: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
	+ Names of the DoD invitees it designated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

11. Does the invitation include an unsolicited offer for the employee to bring a guest? (Y/N) \_\_

* If Yes:
	+ How many? \_\_\_
	+ Will others in attendance also be accompanied by a guest? (Y/N) \_\_\_\_

12. Does the person / organization extending the invitation have any matter(s) pending before DoD? (Y/N) \_\_\_\_\_\_

* If Yes, is the DoD employee who has been invited to the event involved in these matters? (Y/N) \_\_\_\_ If Yes, please describe: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

13. What is the value of free attendance being offered? \_\_\_\_\_

* Is the event invitation only? (Y/N) \_\_\_\_\_
	+ If No, is the event open to the public/all government/all DoD? (Y/N) \_\_\_\_
* Is there a fee or ticket price for anyone to attend the event? (Y/N) \_\_\_\_
	+ If Yes, what is the face value of ticket/registration being offered: \_\_\_\_\_\_
	+ If No, what is the estimated per person cost to host the event: \_\_\_\_\_\_\_
* Do certain categories of persons get free attendance? If so, identify those categories: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

14. Are other unsolicited gifts being offered in addition to free attendance (i.e., free parking, memento, transportation, etc.) (Y/N) \_\_\_\_

* If Yes, please itemize and identify the estimated cost of each gift: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

15. Is the hosting or inviting organization a registered lobbyist or lobbying organization (2 U.S. Code §1603(a))? (Y/N) \_\_\_\_

16. Is the hosting or inviting organization a media organization? (Y/N) \_\_\_\_\_

17. Is this a fundraising event (e.g., is any portion of price tax deductible)? (Y/N) \_\_\_\_

* If Yes, and a portion is identified to attendees as being tax deductible, please provide that amount: $\_\_\_\_\_\_

18. Is this an event recurring from year to year? (Y/N) \_\_\_\_

19. Please provide a copy of the original invitation, including any electronic transmittal, if applicable.

20. Comments Section: Please provide any additional relevant information.

**TAB C**

**WAG MEMO**

**[*For PAS or O-7 & Above in Command – An Ethics Official May Provide WAG Authorization*]**

Date:

MEMORANDUM FOR RECORD

SUBJECT: Written Authorization to Accept Free Attendance at a Widely-Attended Gathering

 [Employee name] has been invited by [non-Federal source] to attend [name event] on [date of meeting] in [place of meeting] at no charge. [Employee name] is a Federal employee assigned as [position] in the [office / command]. The offer of free attendance [includes/does not include] an invitation for [employee name] to bring a guest. The event will be attended by approximately [##] people from [government, industry, academia, other (name all that apply)] representing a diversity of views or interests. There will be an opportunity for [employee name] to exchange ideas and views with other attendees. I find that the event is a widely attended gathering; the employee's attendance is in the agency's interest because it will further agency programs or operations; and the agency's interest in the employee's attendance outweighs the concern that the employee may be, or may appear to be, improperly influenced in the performance of official duties.

I have considered the importance of the event to the agency, the nature and sensitivity of any pending matter affecting the interests of [non-Federal source] and the significance of [employee name]’s role in any such matter. I have also considered the purpose of the event, the identity of other expected participants, the value of the gift of free attendance, whether acceptance would reasonably create the appearance that [non-Federal source] is receiving preferential treatment, and persons with views or interests that differ from those of [non-Federal source] have been, or would be, provided similar access to Government employees.

Acceptance of this offer of free attendance is approved, subject to an ethics official’s review and concurrence. This memorandum will be coordinated with an ethics official prior to acceptance. I understand that attendance is in a personal capacity and that TDY funds cannot be used to send employees to this event.

[Supervisor name, position, and grade],

Point of Contact: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Ethics Official Coordination: Concur \_\_\_\_\_\_\_\_\_\_\_\_\_

 Non-concur \_\_\_\_\_\_\_\_\_

Copy to: [employee name]

\* Employees should retain a copy of this memo for six years

**TAB D**

**1353 TRAVEL PAYMENTS**

Date:

MEMORANDUM FOR RECORD

SUBJECT: Acceptance of Travel Benefits In Accordance With 31 U.S.C. 1353

Travel benefits have been offered by [non-Federal source] to accommodate the participation of [employee name] in [name of meeting or similar event] on [date of meeting] in [place of meeting]. This meeting is not essential to [DoD Component]’s mission and is not promotional vendor training or other marketing. The travel is related to the employee's official duties and the employee will be participating in an official capacity. This travel is in the interest of the Government. Travel benefits will be provided in-kind or by check or similar instrument made payable to the "U.S. Treasury.” Requests for reimbursement of travel benefits (such as meals) provided by [non-Federal source] will be excluded from [employee’s name]’s travel voucher, if applicable.

I have considered the identity of [non-Federal source], the purpose of the meeting, the identity of other expected participants, and the monetary value and character of the travel benefits. I have also considered whether there is any matter pending at [DoD Component] that may affect the interest of [non-Federal source], and if so its nature and sensitivity and the significance (if any) of [employee name]'s role in the matter. I have considered any impact the performance or nonperformance of [employee name]'s official duties might have on [non-Federal source]. Based on these considerations, I find that [non-Federal source] is not disqualified due to a conflict of interest and make the following determination:

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 programs or operations.

[*IF APPLICABLE - I have verified that the premium travel benefits offered by [non-Federal source] are comparable in value to those offered to similarly situated meeting attendees and were approved in accordance with DoD’s procedures for the use of such benefits.*] Therefore, acceptance of these travel benefits is approved, subject to OSD Standards of Conduct Office (SOCO) review and concurrence. This memorandum will be coordinated with [an ethics official] prior to acceptance.

Signature Block of

Travel Approving Authority

 ***(\*Memo must be signed prior to forwarding to SOCO\*)***

Ethics Counselor Coordination: Concur \_\_\_\_\_\_\_\_\_\_\_\_\_

 Non-concur \_\_\_\_\_\_\_\_\_

**Date**:

**MEMORANDUM FOR**: Ethics Counselor, Standards of Conduct Office

**SUBJECT**: Report of Payments for Travel Benefits from a Non-Federal Source

 Pursuant to 31 U.S.C. 1353

**Traveler’s Name**:

**Traveler’s Title**:

**Traveler’s Grade or Rank**:

**Traveler’s Email Address**:

**Traveler’s Point of Contact/Telephone**:

**Event Name:**

**Event Description**:

**Sponsor(s) of Event** (*include any significant co-sponsors, e.g., “University of Texas, in conjunction with, Longhorn Defense Corporation”*):

**Location of Event**:

**Date of Event**:

**Travel Dates**:

**Nature of Participation** *(“speaker”, “attendee”, etc.*):

**Non-Federal Source of Payment** (*who actually pays*):

**Total Value of Benefits Received**: \_ Final Amounts \_ Estimated Amounts ***(employee must provide final amounts within 5 days of return from trip)***

Lodging:\_\_\_\_\_\_\_ **Nature of Payment**: \_\_ Check \_\_ In-kind payment \_\_ Both

Transportation:\_\_\_\_\_\_\_ **Nature of Payment**: \_\_ Check \_\_ In-kind payment \_\_ Both

Meals:\_\_\_\_\_\_\_ **Nature of Payment**: \_\_ Check \_\_ In-kind payment \_\_ Both

Miscellaneous:\_\_\_\_\_\_\_ **Nature of Payment**: \_\_ Check \_\_ In-kind payment \_\_ Both

**Premium Travel**: (*include brief description of premium benefits offered, date of approval from travel office, and whether or not the premium travel offered was comparable in value to those offered to other similarly situated meeting attendees*)