

deals in significant part with any ongoing or announced policy, program or operation of the DoD employee's agency, as defined in 5 CFR 3601.102(a), and the DoD employee has not been authorized by appropriate agency authority to present that material as the agency's position.

(i) The required disclaimer shall expressly state that the views presented are those of the speaker or author and do not necessarily represent the views of DoD or its components.

(ii) Where a disclaimer is required for an article, book or other writing, the disclaimer shall be printed in a reasonably prominent position in the writing itself. Where a disclaimer is required for a speech or other oral presentation, the disclaimer may be given orally provided it is given at the beginning of the oral presentation [end of General Order].

(2) *Security clearance.* A lecture, speech, or writing that pertains to military matters, national security issues, or subjects of significant concern to DoD shall be reviewed for clearance by appropriate security and public affairs offices prior to delivery or publication.

(3) *Honoraria.* Compensation for a lecture, speech or writing may be restricted by the honoraria prohibition of 5 U.S.C. App. (Ethics in Government Act of 1978, sec. 501); 5 CFR part 2636, and 5 CFR 2635.807. However, the U.S. Office of Government Ethics, by memorandum dated February 2, 1994,¹³ determined in accordance with a Department of Justice letter to the Director, Office of Government Ethics,¹⁴ that the Department of Justice will not seek to impose penalties for violations of 5 U.S.C. App. (Ethics in Government Act of 1978, sec. 501); with respect to receipt of honoraria between September 26, 1993 and the date on which the Supreme Court issues its decision on this matter.

[59 FR 13214, Mar. 21, 1994, as amended at 60 FR 20030, Apr. 24, 1995]

¹³ See footnote 2 to § 84.4(d)(7).

¹⁴ See footnote 2 to § 84.4(d)(7).

Subpart D—Travel Benefits

§ 84.11 Acceptance of official travel benefits in kind or payment for official travel expenses.

(a) *Acceptance from non-Federal sources—(1) Official travel.* Official travel by DoD employees shall be funded by the Federal Government except that DoD components may accept official travel benefits, including in kind subsistence and accommodations and payments or reimbursements of expenses, from non-Federal sources as provided in this subpart of this part.

(2) *Personal travel.* This subpart does not apply to travel benefits provided to DoD employees in their personal capacities. However, DoD employees must report such travel expenses when appropriate in accordance with subpart G of this part. There may be limitations on acceptance of travel benefits in a personal capacity, including limitations on acceptance from prohibited sources, because of official position, and under 41 U.S.C. 423.

(3) *Acceptance procedures.* Any official travel benefits from non-Federal sources accepted by the travel approving authority must be:

(i) Approved in writing by the travel approving authority with the advice of the DoD employee's Ethics Counselor;

(ii) If accepted under the authority granted by 31 U.S.C. 1353, approved in advance of travel.

(4) *Spousal travel.* The travel approving authorities for travel of a spouse accompanying a DoD employee on official travel that is paid for or provided in kind by a non-Federal source are as follows:

(i) For DoD employees of OSD, Defense Agencies and OSD Field Activities, the Executive Secretary, OSD;

(ii) For DoD employees of Military Departments, the Secretaries concerned or their designees;

(iii) For DoD employees of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the United or Specified Commands, and the Combined Commands and agencies, the Chairman of the Joint Chiefs of Staff, or his designee.

(b) *Acceptance of travel and related expenses by a DoD component from non-Federal sources—(1) Attendance at a*

meeting or similar function (31 U.S.C. 1353).

(i) In accordance with 31 U.S.C. 1353 and GSA travel regulations, 41 CFR 301-1.2 and part 304, Heads of DoD components may accept travel benefits from a non-Federal source incurred by DoD employees in connection with their attendance in an official capacity at a meeting or similar function. The Joint Federal Travel Regulations¹⁵ (JFTR), Chapter 7, part W, Paragraphs U7900-7908 (DoD Uniformed Services) and Joint Travel Regulations¹⁶ (JTR), Chapter 4, part Q, Paragraphs C4900-4908 (DoD Civilian Personnel) implement 41 CFR 301-1.2 and part 304. For detailed guidance as to the applicability and application of specific authority, these regulations should be consulted directly.

(ii) Where the GSA travel regulations, 41 CFR 301-1.2 and part 304, are inconsistent with the JFTR and JTR, 41 CFR 301-1.2 and part 304 are the controlling authorities.

(iii) A DoD component may not accept travel benefits from non-Federal sources under any other gift acceptance authority if 31 U.S.C. 1353 applies.

(iv) *Payment guidelines.* DoD employees (or their spouses) shall not accept cash payments on behalf of the Federal Government.

(A) When travel benefits are paid for rather than provided in kind, payments from the non-Federal source will be by check or similar instrument made payable to the United States Treasury. Any such payment received by the DoD employee (or spouse) shall be submitted with his travel voucher as soon as practicable.

(B) The DoD employee shall exclude from his travel voucher any request for reimbursement for travel benefits furnished in kind by a non-Federal source on the travel voucher to ensure that appropriate deductions are made in the travel, per diem, or other allowances payable by the United States.

(v) *Reporting.* Each travel-approving authority designated by the DoD component Head to accept travel benefits

from non-Federal sources shall submit a report to the DoD component DAEO or designee semiannually on April 30 and October 31 to accommodate the required reporting to OGE on May 31 and November 30 each year. See JFTR, Paragraph U7908 and JTR, Paragraph C4908 for details on what to report.

(2) *DoD component gift acceptance statutes.* In accordance with procedures established by those DoD components with gift acceptance authority under 10 U.S.C. 2601, travel benefits may be accepted by such DoD component Heads or their designees.

(i) This authority may not be used to accept travel benefits covered by 31 U.S.C. 1353.

(ii) This authority may be used to accept, for example, reimbursement for travel benefits of flight crew members that accompany Federal Government aircraft to international air shows or the expenses incurred by the attendance of DoD employees at ceremonial events in order to enhance a DoD component's public relations. This authority may also be used to accept travel benefits offered after travel has begun or has been completed.

(3) *DoD component DAEO or designee approval.* Acceptance of official travel benefits from non-Federal sources described in §84.11(b)(1) and (2) requires the concurrence of the DoD component DAEO or designee.

(c) *Acceptance of contributions, awards and other payments by DoD employees from tax-exempt organizations (5 U.S.C. 4111)—(1) 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 section.

(2) *Conditions for acceptance.* Except when acceptance is permitted under 5 CFR 2635.204(d), 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:

(i) The source is tax-exempt organization described by 26 U.S.C. 501(c)(3) or a State or local government (see 5 CFR part 410, subpart G);

(ii) The contribution, award, or payment of travel benefits is incidental to

¹⁵For sale by Superintendent of Documents, Congressional Sales Office, U.S. Government Printing Office, Washington, DC 20402

¹⁶See footnote 15 to §84.11(b)

training in non-Federal Government facilities or attendance at a meeting;

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

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

(v) 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

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

(3) *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.

(4) *Reporting.* (i) Financial disclosure reporting individuals must report acceptance of these travel benefits if the fair market value of those benefits reaches the reportable amount.

(ii) Travel benefits accepted under 5 U.S.C. 4111 shall be reported by the travel-approving authority directly to the DoD component DAEO or designee within 30 days after completion of travel. These reports shall include, at a minimum, the information required for the semiannual reports by the JFTR, Paragraph U7908 and JTR, Paragraph C4908.

(d) *Receipt and disposition of foreign gifts and decorations (5 U.S.C. 7342).* DoD employees may accept travel and travel-related expenses from a foreign government in accordance with 32 CFR part 95.

[59 FR 13214, Mar. 21, 1994, as amended at 60 FR 20030, Apr. 24, 1995]

§ 84.12 DoD guidance.

(a) *Acceptance of incidental benefits.* There are two basic principles DoD employees must consider in determining whether they may accept benefits offered incident to their official travel.

See DoD travel rules (e.g., DoD Directive 4500.9¹⁷).

(1) *Federal Government property.* Anything that does not fall within a gift exception or exclusion under 5 CFR part 2635, subpart B, or 5 CFR 3601.101-3601.108, which is received by a DoD employee as a result of official travel, belongs to the Federal Government, regardless of the source of the funding.

(i) Travel coupons, tickets, promotional items of more than nominal value, frequent flyer mileage credits, and most other benefits received by DoD employees from non-Federal sources (e.g., airlines, rental car companies, hotels) incident to their official travel belong to the Federal Government. They may not be used for personal purposes.

(ii) If possible, such benefits will be turned over to the appropriate official. See JFTR, Paragraph U2010B, JTR, Paragraph C1200, 41 CFR part 301 and 41 CFR 101-25.103.

(2) *Gifts from outside sources.* Benefits offered to a DoD employee from a non-Federal source incident to official travel that cannot be used for official purposes must be treated as gifts to the DoD employee. DoD employees may not accept such gifts if acceptance would violate 5 CFR part 2635, subpart B.

(b) *Examples of benefits considered Federal Government property—(1) Frequent flying mileage credits.* Frequent flyer mileage credits earned as a result of official travel are the property of the Federal Government. They shall not be used except in connection with official travel. Credits are used in connection with official travel either by redeeming them for airline tickets which are used for official travel or by using them for travel upgrades while on official travel (e.g., airline seat upgrades, rental car upgrades, hotel upgrades). First consideration should be given to the former. When mileage credits for official and personal travel have been commingled in the same account, only those credits or points that clearly can be shown to have been derived from personal travel may be used for future personal travel. All other points in the account belong to the Federal Government.

¹⁷ See footnote 4 to § 84.7(d).