

FDA STAFF MANUAL GUIDES, VOLUME III - GENERAL ADMINISTRATION

FINANCIAL MANAGEMENT

TRAVEL

ACCEPTANCE OF PAYMENT FOR TRAVEL EXPENSES FROM NON-FEDERAL SOURCES

Effective Date: 01/26/2017

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1. PURPOSE.

This guide defines the policy and procedures of the Food and Drug Administration (FDA) with respect to acceptance of payment in-kind from non-Federal sources to defray, in whole or in part, travel or travel-related expenses. It applies to all officers and employees of the FDA, both commissioned corps and civilian, for official duty domestic and international travel.

Travel funded by non-Federal sources is processed in the FDA's electronic travel system. This system is currently Concur Government Edition (ConcurGov).

2. BACKGROUND.

Acceptance of payment from a non-Federal source for travel, subsistence, and travel-related expenses, also referred to as “sponsored travel,” is derived from the United States Code (USC). The acceptance of “sponsored travel” from a non-Federal source for official duty travel should be the exception and not the rule. The underlying principle of the Department of Health and Human Service’s policy is that if the employee’s participation warrants the expenditure of official time, it also warrants the expenditure of Federal funds.

3. REFERENCE/AUTHORITY.

FDA policy is consistent with guidance set forth by the following policies regarding the acceptance of payment for travel expenses from non-federal sources. These include:

- A. 31 U.S.C.1353 (<http://www.gpo.gov/fdsys/pkg/USCODE-2011-title31/pdf/USCODE-2011-title31-subtitleII-chap13-subchapIII-sec1353.pdf>)
- B. Federal Travel Regulations (FTR), Chapter 304 (<http://www.gsa.gov/portal/ext/public/site/FTR/file/FTR304TOC.html/category/21871/hostUri/portal>)
- C. 42 U.S.C. 3506 (<http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/pdf/USCODE-2010-title42-chap43-subchapI-sec3506.pdf>)
- D. 5 U.S.C. 7342 (<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title5/pdf/USCODE-2013-title5-partIII-subpartF-chap73-subchapIV-sec7342.pdf>)
- E. Department of Health and Human Services (HHS) Travel Policy Manual, Chapter 7 (<https://www.psc.gov/transportation-services/resources/HHS-Travel-Policy-Manual.pdf>)
- F. Office of Government Ethics Standards of Ethical Conduct 5 CFR 2635 Subpart B (<http://www.ecfr.gov/cgi-bin/text-idx?SID=cecbf69df78cc2d50f15576f383fc20b&mc=true&node=sp5.3.2635.b&rgn=div6>)
- G. FDA Staff Manual Guide 2340.2, Other Than Coach Class Travel, Effective Date 08/23/2016 (<http://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/StaffManualGuides/UCM256410.pdf>)

4. DEFINITIONS.

- A. **Non-Federal sources** – Any person or entity other than the Government of the United States. The term includes any individual; private or commercial entity; nonprofit organization or association; international or multinational organization (irrespective of whether an agency holds membership in the organization or association); or foreign, State, or local government (including the Government of the District of Columbia); see FTR 304-2.1.
- B. **Payment in-kind** – Transportation, food, lodging, or other travel-related services provided by a non-Federal source, in lieu of monetary payments to the Federal agency for those services. Payment in-kind also includes waiver of any fees that a non-Federal source normally collects from meeting attendees (e.g., registration fees); see FTR 304-2.1.
- C. **Travel subsistence, and related expenses (travel expenses)** – Expenses for transportation, food, lodging, or other travel-related services made in line with FTR Chapter 301 for official travel away from the employee's duty station. This includes conference or training fees and benefits that are incident to the meetings, which are made available by the meeting sponsor(s) to all attendees; see FTR 304-2.1.

5. POLICY.

A. General Policy

FDA may accept payment in-kind for travel expenses by a non-Federal source (also referred to as "HHS-348 non-Federal sponsored travel" or "sponsored travel") for services such as transportation, food, lodging, or other travel-related services. The acceptance of payment in-kind from outside sources for travel should be the exception and not the rule.

The underlying principle of HHS is that if an employee's participation warrants the expenditure of official time, it also warrants the expenditure of Federal funds. Employees shall not solicit the payment of travel expenses from non-Federal sources, and indications of solicitation of support may result in denial of an offer of support that might otherwise be acceptable.

If an employee is accepting payment in-kind for travel expenses on behalf of the U.S. Government under 42 U.S.C. 3506 ("advisory services" related to FDA functions or activities) for travel and travel-related expenses from a foreign government or international organization, the FDA travel orders must reflect that. The requirement for additional documentation on the travel order does not apply for acceptance for payment in-kind of travel expenses under 31 U.S.C. 1353.

Employees who give speeches or participate in conferences in their official capacity are considered to be on duty for those purposes and are prohibited by Federal law from accepting any fee, honorarium, or anything of monetary value in connection with their participation in the event.

Employees may not accept travel expenses for a spouse or member of their family to accompany the employee on the travel.

Employees are not permitted to take annual leave in conjunction with any trips that are sponsored, in whole or in part, by non-Federal sources. This includes domestic and international travel.

Employee may not have an approved outside activity with the organization offering in-kind payment for travel expenses that ended less than 12 months ago.

A non-Federal source offering to pay all or part of an employee's travel cost must ensure that it does not put the employee in a difficult situation by contributing to the costs of accommodations other than paying for approved travel expenses in accordance with stated HHS Travel Regulations. Sponsors are required to include two standard statements in the letter of invitation as well as in the FDA Sponsor Certification Form before the offer can be considered for acceptance. A sample letter of invitation can be found in Appendix A, and the Sponsor Certification Form can be found in Appendix B.

If an employee believes that an organization has attempted to make unapproved contributions to defray travel expenses, the situation should be reported to the employee's supervisor and to the Division of Ethics and Integrity.

B. Restrictions to Official Duty Travel Funded by Non-Federal Sources

Offers of payment in-kind for travel will not be accepted in any circumstances where there is the potential for real or apparent conflict of interest. Such circumstances include, but are not limited to, the following:

1. If the non-Federal source is an FDA-regulated firm such as a drug or device manufacturer, food processor or retail grocery chain, or a trade association of such regulated firms. In the case of foreign firms or trade associations that may represent them, reimbursement may not be accepted even if the firms do not currently ship regulated products to the U.S.;

2. If the non-Federal source has submitted a new application to the FDA or if the application is pending approval;
3. If the non-Federal source is engaged in any lobbying activities;
4. If the non-Federal source receives more than 10% of their annual operating income from a corporate source;
5. If the non-Federal source receives funds from the regulated industry or trade associations;
6. If the non-Federal source receives Federal grants or funds from a contract or cooperative agreement with the traveler's Center, FDA, or other HHS components;
7. If the traveler is an officer, board member, trustee, or employee of the non-Federal source; or
8. If any other situation exists that could be perceived as resulting in a conflict of interest.

Responsibility for this judgment should be shared initially by the traveler, the traveler's supervisor, and the travel authorizing authority. Any judgment should be on the side of caution so that even the appearance of any impropriety or potential impropriety is avoided.

C. Partial Payment In-Kind from Non-Federal Sources

When a non-Federal source funds only a certain portion or type of travel expenses, FDA may opt to pay for the remaining expenses. When FDA pays for a portion of expenses not covered by non-Federal sources, the amount paid by FDA cannot exceed the applicable maximums established in the FTR Chapter 301.

It is at the Center/Office's discretion whether or not to accept funding from any non-Federal source for meals and incidental expenses (M&IE). Travelers should refer to their Center/Office's policy for guidance on acceptance of in-kind payments for M&IE. If in-kind payments for M&IE are accepted, the traveler may not claim these expenses on their travel voucher.

D. Acceptance of Sponsored Travel

Acceptance of payment in-kind must be authorized in writing in advance in a properly completed HHS-348 Form. The request for sponsored travel will need to be reviewed and approved by the traveler's supervisor or

designee, the traveler's Center/Office HHS-348 Travel Coordinator, the traveler's Center/Office Executive Officer, and the Division of Ethics and Integrity. The traveler's Center/Office Executive Officer must make the final determination on the acceptance of sponsored travel.

In every possible instance, the prior approval for a request for sponsored travel will include a determination of expected costs. Allowances will be made for any reasonable cost deviations or for any unexpected or unavoidable occurrences or rearrangements beyond the control of the traveler.

E. Other than Coach Class Common Carrier Travel Accommodations

Travelers offered payment in-kind for other than coach class accommodations (premium, first, or business class) must follow all of the policies and procedures in SMG 2340.2. Travelers must be especially mindful of accepting payment in-kind for any other than coach class accommodations from private, for-profit commercial entities and from international organizations to which the U.S. Government pays dues or assessed contributions.

In addition to the conditions outlined in SMG 2340.2, travelers offered other than coach class travel by a non-Federal source should ensure that the accommodations furnished are comparable in value to those offered to, or purchased by, other similarly situated attendees at the meeting.

F. Sponsored Travel for WHO, FAO, and PAHO

If the non-Federal source offering payment in-kind is the World Health Organization (WHO), the Food and Agriculture Organization (FAO), or the Pan American Health Organization (PAHO), then the offer for sponsored travel must be in accordance with 42 U.S.C. 3506.

WHO, FAO, and PAHO are pre-approved non-Federal sources for sponsored travel. Under arrangements with WHO, FAO, and PAHO, travelers from FDA are considered to be traveling under their travel regulations rather than under the travel regulations of the U.S. Government. As a result, the expenses provided by WHO, FAO, or PAHO are considered payment in full for travel and travel-related expenses and will not be supplemented by U.S. Government funds.

6. RESPONSIBILITIES.

The primary roles and responsibilities for the policy directives and required procedures are as follows:

A. Responsibilities of the Non-Federal Source

1. Send a formal letter of invitation to the requested traveler
2. Complete the Sponsor Certification Form and submit to the traveler preparer

B. Responsibilities of the Center/Office Executive Officer

1. Review the sponsored travel package and make final determination regarding approval for the sponsored travel package to be submitted for review by the Division of Ethics and Integrity. This responsibility may be delegated by the Executive Officer to an official designee through a formal Delegation of Authority, in accordance with FDA Delegations of Authority Standard Operating Procedures for Component Delegation Control Officers
2. Issue a signed Memo to the Traveler and Letter of Acceptance to the non-Federal source when the request for sponsored travel is approved by the Division of Ethics and Integrity. This responsibility may be delegated by the Executive Officer to an official designee through a formal Delegation of Authority, in accordance with FDA Delegations of Authority Standard Operating Procedures for Component Delegation Control Officers, and subject to HHS Guidelines (GAM Ch.8-100, Delegations of Authority)

C. Responsibilities of OFM

1. Receive request from Division of Ethics and Integrity to create a sponsor in UFMS, if applicable. As required, the Division of Ethics and Integrity will provide the Office of Financial Management (OFM) the approved sponsored travel package

D. Responsibilities of the Division of Ethics and Integrity

1. Review and approve sponsored travel package. This review includes ensuring that all required documents are complete and accurate and that the non-Federal source meets all conditions for acceptance of sponsored travel
2. Sign the HHS-348 Form when the review and approval of the sponsored travel package is complete
3. Notify the Center/Office HHS 348 Travel Coordinator of whether the sponsored travel request has been approved

E. Responsibilities of the Center/Office HHS-348 Travel Coordinator

1. Coordinate with the designated Lead Office FATA or designee to compile the required documents for the sponsored travel package for the HHS-348 review and approval process
2. Review sponsored travel package for completeness prior to submitting to Division of Ethics and Integrity for review
3. Submit the sponsored travel package to Division of Ethics and Integrity for review and approval

F. Responsibilities of the Traveler

1. Obtain written authorization for sponsored travel from the supervisor
2. Coordinate with the Travel Preparer, Lead Office FATA, and/or Center/Office HHS-348 Travel Coordinator to compile and submit the required documents for the sponsored travel package
3. Complete the HHS-348 Form
4. After travel, sign the HHS-348 Form as part of the travel authorization and voucher process
5. Prepare and submit request for other than coach class travel, if necessary

G. Responsibilities of the Travel Preparer (this may be the traveler or other office support staff)

1. Coordinate with the traveler, Lead Office FATA or designee, and/or Center/Office HHS-348 Travel Coordinator to compile and submit the required documents for the sponsored travel package
2. Prepare the Letter of Acceptance for the signature of the Center/Office Executive or their designee using standard and proper format
3. Submit HHS-348 sponsored travel authorization using the FDA's electronic travel system, which is currently ConcurGov
4. Submit HHS-348 sponsored travel voucher using the FDA's electronic travel system, which is currently ConcurGov
5. Upload Letter of Invitation, Letter of Acceptance, Sponsor Certification, UFMS Non-Federal Sponsor Customer Request, and approved HHS-

348 sponsored travel request into receipt area of FDA's electronic travel system, which is currently ConcurGov

7. PROCEDURES.

A. Documentation Required for Sponsored Travel

Each trip requiring sponsored travel approval must be submitted separately for approval. Prior approval of the sponsoring organization does not guarantee that the organization will be approved in the future.

Travelers should coordinate with the Travel Preparer, Lead Office FATA, and/or the Center/Office HHS-348 Travel Coordinator to complete and submit the required documents for sponsored travel packages. Travelers should contact their Travel Preparer, Lead Office FATA and/or the HHS-348 Travel Coordinator for the appropriate time frame to submit the sponsored travel package for approval.

The sponsored travel package must be submitted to the Lead Office FATA who in turn will submit the completed package to the Center/Office HHS-348 Travel Coordinator for review in advance of travel.

The following documents comprise the sponsored travel package:

1. Letter of Invitation (LOI) is the document from the non-Federal source offering to fund all or part of the expenses of the Traveler.
 - a. The LOI must be initiated by the requesting non-Federal source, on official letterhead of the non-Federal source, with a typed date within three months of the scheduled departure date and the signature of a representative from the non-Federal source.
 - b. The letter of invitation and the Sponsor Certification Form must contain the following two standard paragraphs:

“Our organization does not receive any federal grants or contracts with the Department of Health and Human Services, or from the regulated industry or trade associations. We are not an FDA regulated industry nor is our organization a Trade Association.

Any room charges that are arranged for FDA employees by our organization will not be less than the hotel would normally charge to the traveling public, with the sole exception of volume discounts made available to us by the hotel. Our organization will not otherwise arrange for or make any additional payments to the hotel to defray room costs for FDA employees.”

- c. On those very rare occasions when an Actual Expense Authorization (AEA) for 348 travel might be needed, the following additional information must be included in the letter of invitation (may need to request a new Letter of Invitation after the sponsor sends the hotel cost information):

"The sponsor is providing the hotel cost above per diem, at a rate of \$_____ per day.

This lodging rate is being offered to all participants including all federal employees who are participating in this travel event and no special treatment is being given to FDA employees."

- d. A sample letter of invitation is contained in Appendix B of this guidance.

2. FDA Sponsor Certification Form

- a. The Sponsor Certification Form must be signed and dated by a representative from the non-Federal source and must include the representative's signature on the bottom of every page. The representative must be the person who signed the letter of invitation.
- b. The Sponsor Certification Form does not have to be completed when the non-Federal source is WHO, PAHO, or FAO. These organizations are pre-approved non-Federal sources of funding.
- c. A sample Sponsor Certification Form is contained in Appendix C of this guidance.

3. HHS-348 Form

- a. The HHS-348 Form contains two sections:
 - (1) Request for Approval to Accept Payment of Travel Expenses from a Non-Federal Source
 - (2) Background Information (Ethics Checklist) on Request for Approval to Accept Payment of Travel Expenses from a Non-Federal Source
- b. When completed, the HHS-348 Form will include signatures from the Traveler, the Executive Officer or his/her designee, and an official from the Division of Ethics and Integrity.

- c. Upon completion of travel, the Traveler will sign the Traveler's Certification of the HHS-348.
4. UFMS Non-Federal Sponsor Customer Request Form
 - a. The UFMS Non-Federal Sponsor Customer Request Form must be completed by the Traveler/Travel Preparer or the Lead Office FATA or designee if the sponsor is not listed in the FDA's electronic travel system (ConcurGov) and would need to be added.
 - b. The UFMS Non-Federal Sponsor Customer Request Form must provide confirmation if the sponsor is already listed in ConcurGov.
5. Provide official website for the potential sponsoring organization and conference involved and/or include any brochures or additional information pertinent to the Division of Ethics and Integrity approval.

B. Review and Approval Process

The review and approval schedule for all sponsored (HHS-348) travel submissions is fifteen (15) business days for Division of Ethics and Integrity review. If the sponsored travel package is returned for additional information, the review and approval processing time begins again.

The Center/Office HHS-348 Travel Coordinator will conduct the first review of the sponsored travel package. After the Center/Office HHS-348 Travel Coordinator has cleared the sponsored travel package for further review, the Executive Officer or designee will review the sponsored travel package and determine whether to move forward with the authorization process. If approved by the Executive Officer or designee, the Division of Ethics and Integrity will conduct a full review of the non-Federal source and sponsored travel package. When the review of the non-Federal source and sponsored travel package is complete, the Division of Ethics and Integrity will sign the HHS-348 Form. If the sponsored travel package is approved by the Division of Ethics and Integrity, the sponsored travel package must be uploaded into the receipt area of the FDA electronic travel system (ConcurGov).

Upon approval from the Division of Ethics and Integrity, the Center/Office Executive Officer will sign a Letter of Acceptance which is to be sent to the non-Federal source. In addition, the Center/Office Executive Officer will sign one of the following memos to the traveler approving the sponsored travel: Acceptance of Non-Federal Support Memo under 31 U.S.C 1353 or Acceptance of Expenses from WHO/FAO/PAHO under 42 U.S.C. 3506.

The Center/Office Executive Officer may not overrule a rejection by the Division of Ethics and Integrity.

C. Guidelines for the Letter of Acceptance

A letter of acceptance to the non-Federal source sets forth the terms of agreement for sponsored travel. In no event will the letter of acceptance be released and sent to the sponsoring organization before the request for payment in-kind (HHS-348 Form) has been approved. A letter of acceptance is not required when the sponsoring organization is the WHO, PAHO, or FAO.

The letter of acceptance must always include as an attachment "General Information About FDA Employees Who Attend, Participate In and Speak At Non-Federal Meetings, Conferences and Symposiums," which is linked to Appendix E of this guidance.

If an honorarium has been offered in the letter of invitation, the letter of acceptance must contain the following statement: "Your offer of an honorarium of \$___ is greatly appreciated, however, agency policy does not allow the acceptance of an honorarium by our employees." For additional information pertaining to honorariums, please contact the Division of Ethics and Integrity.

A sample letter of acceptance is contained in Appendix D of this guidance.

D. Travel Authorization for Sponsored Travel

Once the sponsored travel package has been reviewed and approved by the Center/Office Executive Officer, the Travel Preparer should create a travel authorization. The travel authorization should indicate what portion of the trip expenses are to be paid by the sponsoring organization. The estimated costs will be designated on the form.

All approved and signed documents from the sponsored travel package should be attached to the travel authorization, as well as the following additional documents:

1. Written authorization from the traveler's supervisor, in the format of an email or signed memo from the supervisor
2. Letter of Acceptance, signed by the Center/Office Executive Officer
3. Memo to the Traveler, signed by the Center/Office Executive Officer, which is one of the following:

- a. Acceptance of Non-Federal Support Memo under 31 U.S.C. 1353
 - b. Acceptance of Expenses from WHO/FAO/PAHO to the Traveler (under 42 U.S.C. 3506)
5. Supporting information about the event such as brochures, pamphlets, or information from the event website

E. Travel Voucher for Sponsored Travel

In accordance with HHS Travel Regulations, the traveler must always complete and submit a travel voucher within five (5) working days of the completion of the trip. As part of the vouchering process, the traveler must complete and sign the HHS-348 Form.

In those circumstances when reimbursement of the non-Federal source is authorized for payment in-kind and no part of the cost is to be paid by FDA, the traveler will submit a no-expense voucher. When the payment in-kind does not include all allowable expenses, an expense voucher will be submitted with appropriate reductions in per diem or other travel expenses depending upon the extent of the reimbursement by the non-Federal source.

8. EFFECTIVE DATE.

This guide was signed by Peter Kelchner, Acting Director – Office of Financial Management, effective January 26, 2017.

9. Document History - SMG 2340.1, Acceptance of Payment for Travel Expenses from Non-Federal Sources

STATUS (I, R, C)	DATE APPROVED	LOCATION OF CHANGE HISTORY	CONTACT	APPROVING OFFICIAL
Initial	09/16/2008	N/a	OC/OM/OFM	John P. Gentile, Associate Commissioner for Operations
Revision	01/25/2017	N/a	OO/OFBA/OFO/OFM	Peter Kelchner, Acting Director – Office of Financial Management
Change	11/04/2019	URLs in Sect. 3	OO/OFBA/OFO/OFM	Sahra I. Torres-Rivera, Director, OFM

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APPENDIX A – HHS-348 Form

Here is the URL for the HHS-348 Form:
(http://intranet.hhs.gov/forms/hhs_forms/hhs-348.pdf).

APPENDIX B – Sample Letter of Invitation

Here is the URL for the Sample Letter of Invitation:
(<http://inside.fda.gov:9003/downloads/EmployeeResources/Ethics/FDAEthicsProgram/UCM425427.doc>).

APPENDIX C – Sponsor Certification Form

Here is the URL for the Sponsor Certification Form:
(<http://inside.fda.gov:9003/downloads/EmployeeResources/Ethics/FDAEthicsProgram/UCM425425.pdf>).

APPENDIX D – Sample Letter of Acceptance

Here is the URL for the Sample Letter of Acceptance:
(<http://inside.fda.gov:9003/downloads/EmployeeResources/Ethics/FDAEthicsProgram/UCM425431.doc>).

APPENDIX E – General Information about FDA Employees Who Attend, Participate in, or Speak at Non-Federal Meetings, Conferences, and Symposiums

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(<http://inside.fda.gov:9003/downloads/cder/officeofnewdrugs/officeofantimicrobialproducts/ucm375334.doc>).