



# Non-Federal Travel Support

Purpose: This document summarizes the rules surrounding acceptance of non-federal travel support.

Notice: This information summarizes regulations that restrict or otherwise affect the ability of the DOC to accept gifts of non-federal travel support from outside sources. Because restrictions are dependent on specific facts, and because this information is a summary of the rules, please contact your [ethics official](#) to discuss your situation.

Advice from an ethics official with respect to these matters is provided under 5 C.F.R. § 2635.107(b). For that reason, disclosures made to a DOC ethics official are not protected by attorney-client privilege.

## I. THE RULE

1. The Department of Commerce may accept payments or in-kind gifts from a non-federal source for travel, subsistence, and related expenses with respect to attendance of the employee at any meeting or similar function relating to the official duties of the employee. 31 U.S.C. § 1353; *see also* [Department Administrative Order \(DAO\) 203-9](#). *This includes the waiver of registration fees.* The rule holds true so long as:
  - a) The gift is approved prior to the beginning of travel;
  - b) The appropriate supervisor has determined that participation in this event will support a department program or operation;
  - c) The gift was not solicited;
  - d) The gift is not for first-class travel or travel on private aircraft; and,
  - e) Acceptance would not create an appearance of impropriety.

## II. THE EVALUATION

2. To determine whether an appearance of the loss of impartiality is likely, consider the following factors:
  - a) Is the gift from an agency contractor?
  - b) Is the gift from an agency grantee?
  - c) Is the gift from a member of an industry regulated by the agency? And,
  - d) Is the gift from someone with an interest in a controversial matter before the agency?
3. For purposes of this evaluation, the “agency” is the operating unit of the traveling employee or, for the National Oceanic and Atmospheric Administration (NOAA), the line office, and for the National Institute of Standards and Technology (NIST), the program office.
4. Any such gift of non-federal travel support should be submitted to the Ethics Law and Program Office (ELPO) for review to determine whether the potential gift meets all statutory, regulatory, and Departmental policy requirements. Ultimately, agency leadership will make the final determination as to whether a gift is accepted, even if it does meet requirements.
5. The final decision to accept them should be made by the agency leadership based on a determination that acceptance would “[n]ot cause a reasonable person with knowledge of all the facts relevant to a particular case to question the integrity of the Department’s programs or operations.” See DAO 203-9 at § 6.01(c). In making the determination, the approving official must be guided by all relevant considerations, such as:
  - a) The identity of the non-federal source;
  - b) The purpose of the event;
  - c) Other expected participants;
  - d) Whether there are matters pending at the bureau that may affect the donor and the significance of the employee’s role in any such matter; and
  - e) The monetary value and character of the travel benefits offered by the non-federal source.

### III. REPORTING

6. If the gift is accepted, it must be reported on a [Form CD-210, Record of Gift or Bequest](#), and if the gift is greater than \$250, on a [Form SF-326, Acceptance of Payment from a Non-federal Source for Travel Expenses](#). This requirement includes gifts from foreign governments and when the travel is abroad. The Form CD-210 is neither signed, nor maintained, by ELPO and must be submitted to the appropriate official within the traveler's agency for approval.

*This handout is for information purposes only and is not a substitute for advice from an [ethics official](#).*

*Please check our [website](#) for additional ethics guidance and materials.*