

*Section 304–3.8 Must I Adhere to the Provisions of the Fly America Act When I Receive Air Transportation to a Meeting Furnished or Paid by a Non-Federal Source?*

Section 304–3.8 exempts air transportation paid by a non-Federal source from the requirements of the Fly America Act (Act). One Federal agency commented that this section implies that an employee will have a working knowledge of the Act's requirements and that the explanation of the Act is confusing. GSA appreciates this comment. Although § 304–3.8 exempts air transportation paid by a non-Federal source from the requirements of the Fly America Act, additional language has been inserted within the answer of this section to address where an employee may find the regulations implementing the Fly America Act.

*Section 304–3.11 Am I Limited to the Maximum Subsistence Allowances (per Diem or Actual Expense) Prescribed in Applicable Travel Regulations for Travel Expenses Paid by a Non-Federal Source?*

Section 304–3.11 generally limits payment of travel expenses by a non-Federal source to the maximum subsistence allowances prescribed in the Federal Travel Regulation, or other applicable governmentwide travel entitlement for military and foreign service personnel. One Federal agency recommended that this policy also include conference lodging as a form of subsistence allowance. GSA agrees with this comment and has modified § 304–3.11 to include conference lodging as a form of maximum subsistence allowance for travel expenses paid by a non-Federal source.

*Section 304–3.13 After I Begin Travel to a Meeting, What Should I Do if a Non-Federal Source Offers To Pay for One or More of My Travel Expenses Without My or My Agency's Prior Knowledge?*

Section 304–3.13 of the proposed rule permits after-the-fact agency acceptance of payment from a non-Federal source for travel expenses to a meeting under certain circumstances.

Four comments were received from Federal agencies regarding after-the-fact authorization for acceptance of travel expenses. Comments from two Federal agencies are in approval of and appreciate this policy change. One Federal agency questions the reason for this policy change. One Federal agency opposes this policy change and recommended that this section be removed. GSA carefully reviewed these

comments. The inclusion of this policy change will allow Federal employees the flexibility to accept payment from a non-Federal source only when the limited conditions under § 304–3.13 are met. Therefore, this policy change remains as published in the proposed rule.

In addition, one Federal agency commented that §§ 304–3.13(b)(3) and (4) should be revised and combined to specifically inform employees that they are subject to penalties specified in § 304–3.18 if they are not in compliance with the requirements of §§ 304–3.13(a) and 304–3.13(b). GSA considered this comment, and for better clarification has replaced § 304–3.13(b)(4) under a separate section as § 304–3.13(c).

*Section 304–3.14 May a Non-Federal Source Pay for My Spouse to Accompany Me to a Meeting?*

Section 304–3.14 establishes the conditions under which an agency may pay for a spouse to accompany an employee to a meeting. One Federal agency commented that this section omitted a current condition that determined when a spouse's attendance at a meeting may be in the interest of the agency. GSA inadvertently omitted this requirement and has thereby revised § 304–3.14 to include this requirement.

*Section 304–3.19 Are There Other Situations When I May Accept Payment From a Non-Federal Source for My Travel Expenses and § 304–4.3 Under What Other Authority May We Accept Payment For Travel Expenses From a Non-Federal Source?*

This part 304 includes new language in §§ sections 304–3.19 and 304–4.3 to clarify the distinction between the authority for an agency to accept payment for travel and related expenses to a meeting as defined in this part versus the authority for an employee to accept free attendance at a widely attended gathering under 5 CFR 2635.204(g)(2). We made this change in consultation with the Office of Government Ethics because of concerns that the widely attended gathering authority might be used to avoid the reporting requirements of this part 304. For travel to a meeting, part 304 is the only authority agencies may use to accept payment from a non-Federal source. There may be cases where the widely attended gathering authority could be used while an employee is on official travel. For example, when an agency accepts payment from a non-Federal source or pays for an employee's travel to attend a meeting, any event for which the widely attended gathering authority is used must be

separate from the meeting. This is true regardless of whether the agency uses part 304 authority to accept travel expenses or the agency pays the travel expenses itself.

In addition to the distinction as to whether the employee is traveling to a meeting, or is attending a separate event, part 304 and the widely attended gathering authorities also differ in that use of the part 304 acceptance authority is appropriate when the employee is on official travel and performing an official function. By contrast, the rules governing widely attended gatherings state, "For employees subject to a leave system, attendance at the event shall be on the employee's own time, or if authorized by the employee's agency, on excused absence pursuant to applicable guidelines for granting such absence, or otherwise without charge to the employee's leave account." (5 CFR 2635.204(g)(2)). Another distinction to note is that travel expenses may not be accepted under the widely attended gatherings exception. (5 CFR 2635.204(g)(4)).

*Section 304–6.4 What Form Must We Use To Report Payments Received by the Agency From Non-Federal Sources?*

Section 304–6.4 requires an agency head or designee to submit Standard Form (SF) 326, Semiannual Reports of Payments Accepted from a Non-Federal source. One Federal agency commented that the current policy does not mandate the requirement of this form and that the Office of Government Ethics (OGE) currently accepts an internal agency form that includes all of the information required by § 304–6.4. GSA appreciates this comment. It is not GSA's intent to make a significant substantive policy change through the required use of SF 326. Section 304–6.4 has been modified to allow agencies the ability to request an exemption from the use of SF 326 through OGE.

*Section 304–6.6 How Do We Determine the Value of Payments in Kind That Are To Be Reported on SF 326?*

Section 304–6.6 tells agencies how to determine the value of payments in kind for reporting on SF 326. One Federal agency commented that § 304–6.6(e) should include a statement that where a commercial rate is not available all employees must report the maximum lodging rate for the per diem locality where the meeting is held as established by GSA for CONUS, Department of Defense for OCONUS, and Department of State for foreign locations. GSA considered this comment as appropriate and has amended § 304–6.6(e) accordingly.