

New House Travel Regulations: Clearing Up Some Issues, Raising Others

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On December 27, 2012, the House Committee on Ethics issued new, detailed guidelines and regulations on the acceptance of officially related travel expenses by House Members and employees from private sources. The new travel regulations—which result from three years of review of existing travel standards by the Travel Working Group of the House Ethics Committee—will be effective for all officially related House travel beginning on or after April 1, 2013. As explained later in this article, the most significant changes imposed by the new regulations concern a new 30-day pre-travel deadline for submission of pre-travel forms to the Committee by trip sponsors and by House travelers; a new requirement for trip sponsors to submit a Sponsor Post-Travel Disclosure Form; and certain new categories of trip sponsors.

In significant part, the new regulations present more systematically the guidance on travel previously set forth by the Ethics Committee in the *House Ethics Manual* and in previous “Pink Sheet” advisories. For example, the discussion at § 204.1 of the new regulations on “*de minimis*” lobbyist involvement in “planning, organizing, requesting, or arranging a trip” appears to consolidate and clarify the extent of acceptable lobbyist involvement. In other respects—for example, in connection with the requirement to submit a “detailed, individualized agenda,” set forth at § 503.1(b)—the new regulations appear to memorialize standards the Committee and its staff have previously followed in practice in reviewing and approving trips.

However, in its “Memorandum for All Members, Officers, and Employees” issued in connection with the new travel regulations, the Ethics Committee highlighted three important substantive changes:

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- All **pre-travel forms** and information from the House traveler and **from the travel sponsor(s) will now need to be submitted to the Committee 30 days before the trip.** (The current rule permits submission of forms and information 14 days before a trip.)
- There is **a new requirement for trip sponsors to submit a Sponsor Post-Travel Disclosure Form to House travelers.** This new form will have to be submitted **within 10 days of the end of a trip.**
- The new travel regulations delineate **new categories of trip sponsors** and set forth specific requirements for each category.

With respect to the new 30-day pre-travel deadline for submission to the Committee of all required sponsor and traveler pre-trip forms, the new House regulations make clear, at § 501.1, that the only exceptions to this requirement will be for travel sponsored by a media outlet for the purpose of making a media appearance or in “exceptional circumstances,” such as when a Member is invited to speak at an event due to the late cancellation of an originally scheduled speaker. A sponsor's failure to extend a travel invitation more than 30 days before the start of a trip is *not* an “exceptional circumstance.” (See § 501.1(b)(2).) Note that, because the new House travel regulations apply to travel beginning on or after April 1, 2013, all required travel forms must be submitted to the Committee by March 1, 2013, for any travel beginning on April 1 or later.

Section 603.1 of the new House travel regulations sets forth the new requirements for the Sponsor Post-Travel Disclosure Form. Within 10 days of a House Member's or employee's return from a privately sponsored trip, the sponsor must provide the Member or employee with a Post-Travel Disclosure Form providing and certifying the accuracy of the information required on the form. This required information includes the actual expenses paid on behalf of the House traveler in connection with the trip.

In § 104 (Definitions) and § 200 (Trip sponsors), the new House regulations delineate three categories of trip sponsors: “Primary Trip Sponsors,” “Grantmaking Sponsors,” and “Non-Grantmaking Sponsors.” It is in connection with the practical application of, and compliance with, these sponsorship categories that the new House regulations will raise the most questions and concerns. “Grantmaking Sponsors” include only 501(c)(3) public charities or private foundations. A “non-grantmaking sponsor” is defined as

An individual or entity that provides funds, services, or in-kind donations to another entity to underwrite, in whole or in part, a trip or an event, meal, or activity that will occur during a trip, or a necessary expense that will be incurred during a trip, with express or implicit knowledge or understanding that one or more House Members or employees may participate or attend that trip or event, or otherwise be beneficiaries of the gift or donation.

A “non-grantmaking sponsor”—like a “primary trip sponsor”—must be directly involved in “planning, organizing, conducting, or participating in” a trip and must complete a “Non-Grantmaking Trip Sponsor” form (unless the entity receives some “tangible benefit”—e.g., promotional consideration—in connection with a trip or event that has been organized “without regard to congressional participation”).

To be considered a “non-grantmaking sponsor,” an individual or entity must provide its funds, services, or in-kind donations “based on a request or award that expressly mentioned the participation or attendance, or possible participation or attendance, of House Members or employees.” (See § 104(u) of the new regulations.) Based on this language, it would appear that a donation to another organization based on a general solicitation (*i.e.*, one that does not mention congressional participation in a specific trip or event during a trip) would not implicate the donor as a “non-grantmaking sponsor” in connection with congressional travel sponsored by that other organization. However, the new House travel regulations are far from clear on this point. Until this and other nuances of the new regulations are clarified, potential “sponsors” of congressional travel should consult with outside counsel and the Ethics Committee well in advance of any travel involving participation by Members or employees of the House.