



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Inspector General

September 12, 2024

MEMORANDUM

FROM:

Andrew Katsaros
Inspector General

A handwritten signature in black ink, appearing to read "Andrew Katsaros".

TO:

David Robbins
Executive Director

Anisha S. Dasgupta
General Counsel

SUBJECT:

Management Advisory on the FTC's Non-Federal
Sourced Travel

The Federal Trade Commission's (FTC's) non-federal sourced (NFS) travel program enables the agency to accept financial support from non-federal sources for employee travel—typically for attending meetings, conferences, and other functions related to official duties. The program operates under specific federal regulations and internal FTC policies to ensure transparency and ethical compliance.

However, the program faces several challenges. Employees, facing a complicated process for getting NFS travel authorized and reimbursed, sometimes fail to identify and report NFS travel correctly, leading to compliance issues and unauthorized expenses. Also, collecting reimbursements from NFS entities can prove problematic, due to frequent delays and administrative burdens. Among the causes of these current issues, we observe that agency systems for tracking NFS travel are not optimally efficient in ensuring timely reimbursements. In addition, policies have not addressed flagging entities with a history of noncompliance—affording the agency opportunities to streamline the reimbursement process and improve the program's efficiency and effectiveness. Finally, we spoke with agency officials who noted breakdowns in coordination and communication among the program's agency stakeholders—the Financial Management Office (FMO), as well as Office of General Counsel (OGC) Government Ethics Office (Ethics Office) and travelers' bureau/office management—that have caused inadvertent noncompliance.

In this management advisory, we share our observations about these NFS travel issues, with no formal recommendations for agency leadership and no formal response required. The OIG provided a draft advisory to FTC management for review, comment, and optional management response. (See Appendix I for a summary of the federal statute and regulations currently defining NFS travel and its requirements—as well as FTC policy and other resources currently serving as a guide for prospective NFS travelers.)

I. Observations

Some FTC staff and officials may not fully understand the requirements that must be adhered to before undertaking NFS travel. Our analysis and discussions with FMO and OGC officials revealed significant delays with reimbursement to the FTC—and, in some instances, the FTC not being reimbursed by NFS sponsors as initially agreed (or possibly at all). Delays and other issues may arise due to multiple causes.

Based on our review, which included examining relevant documentation and conducting interviews with program officials from both OGC and FMO, we observed the following:

- *Many NFS entities, such as nongovernmental agencies and organizations, often present specific documentation requirements or rigid payment processes that complicate and delay reimbursements.* Particularly challenging are reimbursements from universities, which frequently require logging into their unique portals or using other idiosyncratic systems. OGC officials discussed how, sometimes, a source different from the approved NFS entity sends the FTC reimbursement—this may cause the agency to return the money and spend additional time pursuing reimbursement from the originally approved source. These factors add layers of complexity to an already complicated process.
- *Additionally, some entities take considerable amount of time to reimburse funds, further straining agency resources.* This can happen when
 - travelers wait for the reimbursement, instead of monitoring and following up with the NFS entity;
 - FMO must follow up with travelers when reimbursement has not yet arrived; or
 - OGC spends considerable time following up with FMO, travelers, and/or the NFS entities twice a year, when working with FMO to prepare the biannual report for the U.S. Office of Government Ethics.
- Finally, Ethics Office officials reported that, sometimes, *employee travelers struggle to understand and follow the NFS travel process.* During our interviews, one official described an employee traveler who did not obtain approval from the Ethics Office before two separate trips. In both cases, the NFS sponsors were acceptable 501(c)(3) nonprofit sponsors—and, in both cases, the employee received prior approval from office/bureau leadership. However, the Ethics Office must also approve the travel beforehand.

We were also told of another traveler from a different FTC office/bureau, who also incurred travel expenses for a trip sponsored by an acceptable 501(c)(3)

nonprofit—but did not properly route the NFS request through the Concur travel system. As a result, the NFS traveler did not obtain Ethics Office review and approval prior to travel. In this instance, the offer for reimbursement had to be declined due to an administrative error (the traveler inadvertently neglected to categorize the travel authorization request as NFS in the Concur travel system). As a result, the agency could not be reimbursed and, therefore, was responsible for the travel expenses. After the travel took place, the Ethics Office reached out to the agency's Travel Office the same day that it discovered the administrative error. However, the Travel Office approved the trip in Concur without realizing there was no review or approval from the Ethics Office.

While FMO and the Ethics Office might be better versed in the processes, rules, and ethical expectations associated with NFS travel, the responsibility of following up with the sponsoring entity lies with the traveler. When NFS travelers are not fully aware of their responsibilities, one potential result is delays and other challenges in the agency obtaining reimbursement. Another risk is travelers making administrative errors when requesting travel authorization, which jeopardizes the agency recouping NFS travel expenses.

Currently, the FTC is considering adjustments to NFS travel policy and processes (e.g., the Ethics Office continues to work with FMO and the Travel Office on how to improve the data tracking required for its U.S. Office of Government Ethics biannual submission). As the agency looks to improve this aspect of NFS travel, other best practices the agency will likely consider as it refines policies and process may address the following issues:

- *In-kind payments versus monetary reimbursements.* The above challenges merit the FTC's reevaluation of current policies, with a strong consideration toward maximizing in-kind payments for NFS travel. In-kind payments eliminate the need for FTC staff to submit reimbursement requests, reducing the number and duration of administrative steps involved. Direct payment from the sponsor ensures that all travel expenses are managed up-front, simplifying the oversight involved. The risk of errors in documentation and verification is minimized. In short: relying on sponsoring entities for payment reduces delays associated with internal processing and follow-up.
- *Lists of NFS travel sponsors who are approved AND who are repeatedly problematic about payments.* NFS sponsors who have repeatedly posed significant administrative burdens could be flagged, if not avoided entirely. Actions such as repeated delays in payment, requirement of access documentation beyond standard procedures, or failure to comply with agreed upon reimbursement terms, merit management's additional consideration before authorization (or rejection).

II. Conclusion

At the FTC, travel funded by NFS entities is not a monetarily significant expense. Over the past 5 completed calendar years, the program received payment (or payment in-kind) of almost \$29,000, for expenses from a total of 21 trips. Regardless of trip frequency or reimbursement amounts, the FTC and its travelers should avoid the appearance of conflicts of interest—violation of travel laws and regulations may incur civil or criminal penalties.

While NFS support is valuable for agency staff attending important meetings and conferences, it presents challenges in terms of compliance, reimbursement, and potential conflicts of interest. Instituting effective controls is crucial to maintaining the integrity of the program. This memorandum does not contain recommendations for FTC management. Nonetheless, we are available to discuss these issues further at your request

We thank the Office of the Executive Director, OGC, FMO, and other FTC leadership for the cooperation and consideration given to the OIG in the development of this advisory. If you have any questions, please contact me at (202) 326-2457.

Appendix I

Background: Applicable Federal Authorities and Agency Guidance on NFS Travel

Federal criteria. Federal appropriations law empowers the Office of Government Ethics (OGE) and the General Services Administration (GSA) to issue regulations related to NFS travel and requires agencies to report any NFS travel payments above \$250 to OGE. Pursuant to its Section 1353 authority, GSA issued regulations related to NFS travel within its Federal Travel Regulations (FTR). The FTR regulations related to NFS travel explain the circumstances under which NFS travel is permitted and the process that agencies and employees must follow for NFS travel.¹ The FTR permits agencies to accept NFS payments only when (a) the agency has issued a “travel authorization before the travel begin”; (b) the agency has “determined that the travel is in the interest of the Government”; (c) “[t]he travel relates to the employee's official duties”; and (d) the NFS “is not disqualified due to a conflict of interest.”² To determine whether a conflict of interest exists, the agency’s

approving official must be guided by all relevant considerations, including but not limited to the— (1) Identity of the non-Federal source; (2) Purpose of the meeting; (3) Identity of other expected participants; (4) Nature and sensitivity of any matter pending at the agency which may affect the interest of the non-Federal source; (5) Significance of the employee's role in any such matter; and (6) Monetary value and character of the travel benefits offered by the non-Federal source.³

Further, “[t]he approving official must not authorize acceptance of the payment if the approving official determines that acceptance of the payment under the circumstances would cause a reasonable person with knowledge of all the facts relevant to a particular case to question the integrity of agency programs or operations.”⁴ The agency must also ensure that approval of the NFS travel would not violate federal criminal conflict of interest laws or OGE regulations.⁵

Agency guidance. The FTC’s internal policies and procedures align with the FTR and other federal regulations and include specific procedures for the approval documentation and reporting of NFS travel.

Policy. The *FTC Administrative Manual* (Admin Manual), Chapter 2, Section 430—“Restrictions on Accepting Payment of Travel-Related Expenses from Non-Federal Sources (September 2019/Updated September 2019)”—covers non-federal sources⁶ making in-kind payments or monetary reimbursements⁷ to the agency. The Admin Manual requires that NFS travel must be authorized by the employee’s bureau/office

¹ See 41 C.F.R. Ch. 304.

² 41 C.F.R. § 304-5.1.

³ 41 C.F.R. § 304-5.3.

⁴ *Id.*

⁵ 18 U.S.C. § 208; 5 C.F.R. Part 2635.

⁶ These include 501(c)(3) nonprofit organizations, foreign governments, and foreign nonprofit entities that are not disqualified due to conflict-of-interest concerns.

⁷ *In-kind contributions* include payments for transportation, food, lodging, and other travel-related services provided directly by NFS entities, while *monetary contributions* include checks or other financial instruments payable to the FTC. The policy emphasizes the agency’s preference for in-kind payments over monetary ones when travel expenses are covered by an NFS entity.

director and the FTC's designated ethics official. Then FMO reviews travel authorizations for completeness, as well as oversees the reimbursement process.

When completing a travel authorization prior to the trip, FTC policy requires the travel authorization preparer to select "Non-Federal Source Funding" from the Employee Travel System (ETS) purpose codes and to submit with the authorization an original offer letter from the NFS sponsor and an FTC Ethics Office memorandum approving the sponsorship.⁸ Unless a delineated exception applies, all monetary payments must be sent directly to the FTC to ensure proper tracking and accountability. These, as well as other policy requirements, control for transparency, compliance with ethical guidelines, and the proper financial management of NFS payments.

Resources. The OGC Ethics Office's intranet page on official travel provides guidance to FTC officials seeking approval for the FTC to accept reimbursement from NFS entities for travel, subsistence, and related expenses that they incur while on official travel. The resources provided for agency NFS travelers include the following:

- *NFS procedures.* This four-page standard operating procedure (SOP) guide instructs the traveler (or staff making preparations for the traveler) on the proper steps to take, from verifying that the NFS entity is acceptable to preparing an ethics memorandum to creating a travel authorization on the CONCUR platform.
- *NFS acceptable source list.* This alphabetical, searchable list is marked as up to date as of August 12, 2024.
- *NFS sample request fillable memorandum.* Before the event, the traveler/alternate preparer requests authorization from the FTC Senior Ethics Program Specialist for NFS travel reimbursement. This template includes an embedded *NFS conflicts checklist*, a traveler/alternate preparer worksheet for assessing the risk of the most common (but not all) potential conflicts.
- *Sample NFS offer letter.* The SOP for NFS travel references two documents that the traveler/alternate preparer submits to the approving official: a completed and signed NFS ethics memorandum and an offer letter/email from the NFS entity.
- *Fillable template for NFS request for reimbursement.* After the event, the traveler/alternate preparer enters contact information and itemized costs (for transportation and other related expenses) to assist the NFS entity in processing timely payment to the FTC.

⁸ The policy defines travel authorization preparer as an individual "[r]esponsible for selecting Non-Federal Source Funding from the ETS travel purpose codes in order to identify this type of travel, and for itemizing anticipated expenses that will be reimbursed or paid in-kind by the non-Federal source." Admin. Manual Ch. 2, § 430(5).