

July 18, 1983

<p>U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION</p> <p>Bureau of Apprenticeship and Training Washington, D.C. 20213</p> <p>Symbols: TDTD:DB</p>	<p><u>Distribution:</u></p> <p>A-539 All Tech. Hdqtrs.</p> <p>A-544 All Field Techns.</p>	<p><u>SUBJECT:</u> <u>CODE:</u> 902.7</p> <p>Solicitor's Opinion-Official Travel to and Participation in JTPA Meetings</p>
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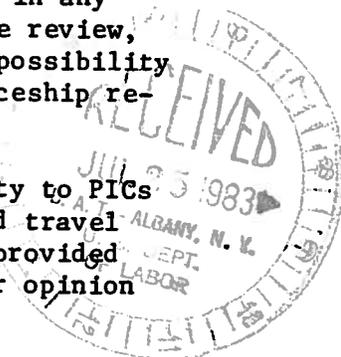
PURPOSE: To transmit a recent Solicitor's Opinion on the proper role of BAT staff in JTPA program administration and whether PICs and JTPA sponsors can reimburse or otherwise pay for travel expenses of ATRs in attending PIC/JTPA meetings and to provide guidance.

BACKGROUND: The attached Solicitor's Opinion was requested to clear up some questions resulting from a July 1980 Solicitor's Opinion (see Travel Bulletin 12-81) which discussed use of CETA funds to reimburse invitational travel costs of Federal employees. The earlier opinion said that as a general rule, such practices were prohibited augmentations of appropriations but that since CETA authorized the receipt of gifts by the Government, invitational travel reimbursement using grant funds would be permitted with appropriate safeguards. In the case of BAT, such travel would have to be authorized by the Director or BAT Regional Director, based on a determination that the travel would not result in a conflict of interest with the traveler's regular duties and would not "compromise the integrity of Government programs or employees." Payment would have to be to the Government, not to the traveler and the amount reimbursed was limited to actual expenses not otherwise paid or reimbursed by the Government.

Our November 17, 1982 request for an opinion involved the same issues as the earlier opinion plus references to BAT's policy encouraging membership on PICs and attendance at PIC functions as members or advisors. Summarizing the Solicitor's response:

- (a) BAT employees may not serve as PIC members or in any other capacity which would involve them in the review, approval, and award of JTPA funds due to the possibility of a conflict of interest with their apprenticeship responsibilities.
- (b) BAT employees may serve in an advisory capacity to PICs and JTPA program sponsors and may have related travel expenses assumed by the PIC or JTPA sponsors provided that the requirements indicated in the earlier opinion are satisfied.

The Solicitor's Opinion did not directly answer the question as to whether JTPA and CETA funds could be used to pay for the



travel costs of BAT employees attending PIC meetings. Based on other advice we have received, such costs are generally considered to be allowable but this does not of course mean that particular States or particular Service Delivery Areas (SDAs) would be willing to use their funds for BAT employees' travel costs.

POLICY: BAT continues to encourage the participation of Regional Directors and ATRs as advisors to JTPA sponsors and PICs. Generally, any travel expenses incurred in connection with these activities are to be paid for from funds allotted to the field for travel. In exceptional cases where there are no BAT funds available for necessary travel and subsistence costs of attending JTPA/PIC meetings and a JTPA sponsor or PIC is willing to pay for such expenses, requests may be submitted to BAT Regional Directors for approving such arrangements in accordance with the standards set out in the attached Solicitor's Opinion.

Attachment

JUN 7 1983

MEMORANDUM FOR: JOYCE KAISER
Associate Assistant Secretary
for Employment and Training

FROM: WILLIAM H. DUROSS, III
Associate Solicitor for
Employment and Training

SUBJECT: Official Travel of BAT
Employees -- CETA and JTPA Meetings

In response to your request for a legal opinion on the above-referenced subject, we are attaching the analysis prepared by the Associate Solicitor for Legislation and Legal Counsel.

If you have any further questions, please contact A. Robert Pfeffer, Room N2101, FPB.

SOL:JPOWERS:N2101:523-7857:ict
June 6, 1983
Control No. 01-32399

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Office of the Secretary.

Initials	
W.H.D.	6/6/83
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CR	6/7/83
W.H.D.	6/7/83

U.S. DEPARTMENT OF LABOR

OFFICE OF THE SOLICITOR

WASHINGTON, D.C. 20210



MAY 17 1983

MEMORANDUM FOR: WILLIAM H. DuROSS, III
Associate Solicitor for
Employment and Training Legal Services

FROM: SETH D. ZINMAN *S Z*
Associate Solicitor for
Legislation and Legal Counsel

SUBJECT: Official Travel of BAT Employees--
CETA and JTPA Meetings

You have asked for our advice as to whether BAT field staff could attend meetings sponsored by CETA and JTPA Prime Sponsors and Private Industry Councils at the expense of these CETA and JTPA grantees. For the reasons stated below, we conclude that ETA employees should not serve as members of Private Industry Councils. We also conclude that in this case, while the Department may receive reimbursement from these outside sources for the attendance at CETA or JTPA meetings, we defer to your Office as to the appropriateness of a grantee's use of grant funds for this purpose.

It is not clear to us whether or not these organizations would use CETA or JTPA grant money to pay for such travel. If so, it should be noted that we do not address the question as to whether or not they may properly use such funds for this purpose. Such questions would, of course, involve matters within the expertise of your Office.

The memorandum you received from Associate Assistant Secretary Kaiser indicates that an acceptance of travel funds question may sometimes arise because a BAT employee is a member of a Private Industry Council (PIC). We do not believe that ETA employees should serve on these PICs. We note that under JTPA, for example, these Councils have significant responsibility for administering, managing and operating JTPA programs using ETA grant funds. In our view, there is a substantial possibility that disputes could arise in which the Labor Department may question the activities of a PIC. Thus, an employee could be

placed in the position of having interests as a member of a Council that would conflict substantially with the interests of the Department. We are also concerned that such PIC membership could give the appearance that the PIC is obtaining preferential treatment or insider information.

While it is our view that ETA employees should not be members of Private Industry Councils, we do not believe it to be objectionable for ETA employees to attend PIC meetings to advise the PICs in their deliberations or to attend other meetings in which their expertise may prove useful in carrying out the statutes involved. Ordinarily, however, the expenses incurred in connection with the official participation of Government employees at such meetings should be borne by the Government in accordance with established travel regulations and procedures.*/

Section 128 of CETA and section 169(b) of JTPA provide for an exception to this general rule by permitting the Department of Labor to accept and dispose of gifts made to the Department for the limited purpose of carrying out these two statutes only. Under these provisions, the donation would be received by the Department and not by the individual. The Department would then reimburse the employee for travel expenses in accordance with the applicable travel regulations. In certain circumstances, in-kind goods and services can be received directly by the employees on behalf of the Department. However, it is strongly advised that any such acceptance should be checked out in advance with the Office of the Solicitor to avoid a contravention of applicable standards. In no case, however, could an employee receive reimbursement from the Government and the outside source for the same expenses.

Gifts for CETA and JTPA purposes should not be accepted by the Department if to do so would cast doubt on the ability of the Department to administer its programs in a fair and impartial manner. It is therefore important to examine each proposed acceptance of funds or a case by case basis, particularly where travel funds will be utilized by employees involved in the award or administration of the grant.

*/ We understand that since these organizations do not have nonprofit status under section 501(c)(3) of the Internal Revenue Code, the provisions of the Government Employees Training Act (5 U.S.C. 4111) permitting employees to be reimbursed by such organizations in certain limited circumstances for attendance at meetings would not apply to the situation discussed here.

In this case, we understand that the BAT field staff are not generally involved in the process of making and administering grants under CETA and JTPA. To the extent that this is the case, it would tend to mitigate any appearance that the Department's receipt of travel funds to be used by such officials would compromise the integrity of the grant processes.

Accordingly, if grant funds are not involved, or if your office were to determine that a grantee could under CETA or JPTA authority properly use grant funds for this purpose, we would have no objection to the Department's receipt of such donations to be used for appropriate travel of ETA employees.



NOV 17 1982

13/11/82
Charles - [unclear]
[Signature]

MEMORANDUM FOR: WILLIAM H. DuROSS
Associate Solicitor for
Employment and Training

FROM: JOYCE A. KAISER
Associate Assistant Secretary
for Employment and Training

SUBJECT: Official Travel by BAT Employees to
CETA and JTPA Meetings Paid for Out
of Grantee Funds

Questions have arisen several times about whether BAT field staff could attend CETA prime sponsor meetings and PIC meetings at the expense of the grantee. The typical situation is that the BAT employee is a member of a PIC but is unable to attend PIC meetings using Federal Salaries and Expenses funds because so little is available for travel costs. The PIC has money available for this purpose but there is a question whether using the money for a Federal employee's travel costs might be a violation of either conflict of interest or augmentation of appropriations requirements. A parallel situation occurs where the Federal employee is not a member of a body established by a prime sponsor such as a PIC but the prime sponsor wishes the BAT employee to attend as a consultant or for other authorized purposes and is willing to bear the costs.

Consistent with the Comprehensive Employment and Training Act, BAT has encouraged its field staff to play an active role in CETA program operations. We would like to continue this relationship under the Job Training Partnership Act to the extent resources permit. I would appreciate your advice as to whether it is permissible for our employees to travel at the expense of CETA/JTPA grantees where the travel relates to official grantee business and is at the request of the grantees.