MEMORANDUM

To: TNC Fire Managers

From: TNC Legal Fire Team

Date: November 19, 2012

Re: Guidance on TNC Participation in Fire Trainings

**Introduction**:

This memo is intended to provide guidance for TNC staff and programs involved in organizing, sponsoring or hosting fire-related trainings, such as:

* Engine Academy;
* Crew Boss Academy;
* Burn Boss Workshop; and
* Workshop on Ecological Burning.

TNC also participates in other fire-related workshops or training activities, such as landowner training workshops, and training exchanges (“TREX”).

**Training Materials**:

There are often materials available for such trainings, such as National Wildfire Coordinating Council (NWCC) materials for the fire trainings, and National Resource Conservation Service (NRCS) or university extension service materials for landowner workshops. These materials should be utilized to the maximum extent possible, as they may be considered to be industry standard.

**Charging a fee**:

The following factors should be considered when determining whether or not to: (a) charge a fee for the training, (b) charge participants for room/board, and/or (c) reimburse instructors or participants for expenses:

1. If there are similar workshops or trainings available for a fee, TNC may need to charge a similar fee to avoid private benefit to any private participants.
2. If you do charge a fee, there may be a higher duty of care to the participants from a liability perspective. It is best to tie any fee directly to the associated expenses (i.e. room and board and training materials), to make it clear that it is not a profit-making venture on the part of TNC.
3. If you are using grant funds to pay for the training or to reimburse participants for expenses, you must consult with your grant specialist, as there may be restrictions on using those funds for government employees.
4. If there are government employee participants, it is the responsibility of the government employee to obtain permission from the agency’s designated ethics officer for receiving a gift, attending an event or accepting travel expenses from a private entity. Any invitation that TNC sends to a federal executive agency employee should be in writing stating the explicit conservation purpose, and include, “The Nature Conservancy assumes that participation in this event will be reviewed by the agency’s designated ethics officer in compliance with the Ethics in Government Act, and please let us know if you need additional information.” Please see the following guidance documents:

For federal employees: <https://connect.tnc.org/Departments/legal/legaltopics/Documents/us_federal_gifts_travel_guide.pdf>

Grant money used for government officials: <https://connect.tnc.org/Departments/legal/legaltopics/Documents/grants_paying_for_govt_officials.docx>

For state employees: please consult your attorney and grants specialist for any additional requirements.

**Prescribed Fire Activities**:

Sometimes these trainings include prescribed fire training exercises. If the Conservancy hosts such exercises, it is responsible for preparing the burn plan, obtaining any required permits, and all other requirements for a Conservancy led prescribed fire. If the prescribed fire exercise is led or hosted by a partner, then the Conservancy should confirm that that partner will be responsible for all pre-burn planning and permitting. In addition, the Conservancy should enter into a [written agreement](https://connect.tnc.org/Departments/legal/legaltopics/Documents/Fire_Training_MOU.docx) with any partner organizations or agencies who will be hosting the prescribed fires, or assisting in the prescribed fire training.

All participants in the prescribed fire exercises must sign and return a [Fire Training Release](https://connect.tnc.org/Departments/legal/legaltopics/Documents/Fire_Training_Release_8-2012.docx) to acknowledge risk, and to release and indemnify the Conservancy (and if applicable, any co-sponsors of the training). Government employees may be prohibited from agreeing to the release or indemnity, but they may still be able to sign the form with those provisions removed. However, please consult with your Conservancy attorney prior to modifying the standard template.

In addition it is advisable to include a certification by the training participant that the information they provide regarding their qualifications and experience is accurate, as well as a disclaimer of liability for injury or damage by the Conservancy. The following is a sample disclaimer designed for use on the NWCC Fire Training Nomination Form, which is the form used to apply for participation in fire trainings.

*Nominee hereby certifies that the information provided in this Fire Training Nomination Form is true and accurate to the best of their knowledge. Please note that The Nature Conservancy assumes no responsibility for personal injury or loss or destruction of property arising from participation by Nominee in this training course, which may include live fire training exercises.*