



October 5, 2011

Don Fox  
Acting Director and General Counsel  
Office of Government Ethics  
1201 New York Avenue, NW  
Suite 500  
Washington, DC 20005-3917

RE: RIN 3209-AA04  
[Proposed Amendments Limiting Gifts from Registered Lobbyists and Lobbying Organizations]

Dear Mr. Fox:

ASAE is appreciative of the opportunity to comment on proposed rule RIN 3209-AA04, which restricts all executive branch employees of the Federal Government from using certain exceptions to accept gifts from registered federal lobbyists and lobbying organizations, including invitations to widely attended gatherings (“WAGs”).

The American Society of Association Executives (“ASAE”) is a section 501(c)(6) individual membership organization of more than 22,000 association executives and industry partners representing nearly 12,000 tax-exempt organizations. Its members manage leading trade associations, professional societies, and voluntary organizations across the United States and in 50 countries around the globe. We advocate for associations so that they may continue to fulfill their important missions and improve the quality of life in the United States and abroad.

ASAE fully supports OGE’s mission to promote high ethical standards for executive branch employees, and is generally accepting of OGE’s intention to limit some of the exceptions that may have been used on occasion to permit certain gifts, such as invites to holiday parties or other social events, where the nexus to the government’s interest is attenuated.

ASAE is encouraged, further, by OGE’s acknowledgement that certain widely attended gatherings can serve important government purposes. OGE justly asserts in its proposed rule that federal employees, including political appointees, should be able to accept offers of free attendance to “substantive events that would provide a legitimate educational or professional development benefit that furthers the interests of an agency.”

In crafting that exception, OGE proposes to allow government employees to accept invitations to attend educational and professional development activities held by Section 501(c)(3) organizations, institutions

of higher education, and nonprofit professional associations, scientific organizations and learned societies, without regard to the LDA registration status of these entities. In explaining the WAG exception, OGE correctly points to the valuable educational and professional development opportunities at these types of programs, but then inexplicably leaves trade associations out of the limited exclusion.

OGE contends in its proposed rule that trade associations “may sponsor educational activities for their members and even the public, but the primary concern of such associations generally is not the education and development of members of a profession or discipline, which is the focus of the proposed exclusion.”

This narrow reading of trade association activities based on a definition from Encyclopedia Britannica ignores the important role these organizations play in virtually every industry that the government seeks to regulate. Companies join trade associations to promote common interests, share best practices and learn about the latest developments in their industry. While many trade associations engage in advocacy, they also help resolve industry-wide issues that could otherwise threaten economic growth, and set safety and technical standards that benefit everyone in exactly the same way as professional associations, scientific organizations and learned societies.

A considerable intersection exists between government and trade associations’ interests. Today’s mixed economy – where government and business both play important roles with regard to production, consumption, job creation, and investment – requires mutual understanding and a free exchange of ideas, knowledge and expertise to ensure informed policymaking and economic progress.

Lawrence Summers, former director of the White House National Economic Council, said last year, “Business and government have important mutual obligations. Government must recognize the importance of building the foundations for businesses to succeed and ensuring a stable business environment. Likewise, businesses must carefully consider their obligations to their fellow citizens.”

In an address earlier this year to the U.S. Chamber of Commerce, President Obama said he envisioned a partnership between the public and private sectors that he called “Winning the Future,” promising to lay the foundation for businesses to grow and innovate and asking businesses to invest in America.

Setting policies that restrict knowledge-sharing between the government and trade associations is counterproductive to the administration’s stated aspirations to work in partnership with the business community to create jobs and grow the economy.

Trade associations are among the many types of nonprofit organizations that sponsor programs in consonance with government interests and with Federal employees’ professional development aspirations. They regularly hold seminars, conferences, trade shows and other programs that forecast industry performance and spotlight concerns. Government employees tasked with promulgating regulations most assuredly benefit from attending programs where they can learn about latest developments, see new product demonstrations, and understand how industries might be impacted by rulemaking. At the same time, trade association members have the opportunity to learn more about agencies’ interests and processes and are better prepared to comply with federal regulations.

These educational and professional development programs conducted by trade associations are virtually indistinguishable from those conducted by the other types of organizations listed in the proposed rule. They offer the same benefits to government employees and should qualify for the same exclusion.

While ASAE appreciates OGE's stipulation that government employees can accept free attendance at events where they are speaking or presenting information on behalf of the administration, the unbalanced treatment of trade association programs in the proposed rulemaking will likely discourage federal employees from availing themselves of these opportunities. Further, the implication in the proposed rule that trade associations use invitations to events as a means of cultivating access by registered lobbyists makes it unlikely federal employees would pay out-of-pocket to attend these types of programs and events, even if they would benefit from attending.

Another unintended consequence of this proposed rulemaking could be that it causes trade associations to deregister as lobbyists so as not to fall under the restriction on gifts such as widely attended gatherings. This would undermine the administration's stated interest in transparency, which we share.

There are countless examples of legitimate, substantive trade association programming that intersect with the government's interests. Trade associations exist for every industry that the federal government regulates, from food safety and insurance to energy and telecommunications, just to name a few. These organizations and the industries they represent want to work with the administration to grow the economy, reduce unemployment, and protect America's standing and credibility in the world. In order to work together, we need the administration to recognize associations as something more than lobbying groups working to exert undue influence over federal agencies and their employees.

ASAE and the attached list of associations urge OGE to revise its proposed exception for gifts to allow federal employees to attend substantive educational programs and events held by trade associations, for the same reasons that this exception has been extended to the other types of organizations listed in the proposed rule.

Thank you in advance for your consideration and if you have any questions, please contact Jim Clarke, senior vice president of public policy at ASAE, at 202-626-2865 or [jclarke@asaenet.org](mailto:jclarke@asaenet.org).

Sincerely,

A handwritten signature in black ink that reads "John H. Graham IV". The signature is written in a cursive, flowing style.

John H. Graham IV, CAE  
President and CEO