



Filed via: [usoge@oge.gov](mailto:usoge@oge.gov)

November 11, 2011

Richard M. Thomas  
Associate General Counsel  
Office of Government Ethics  
1201 New York Avenue, NW  
Suite 500  
Washington, DC 20005-3917

RE: RIN 3209-AA04; Proposed Amendments to Part 2635

Dear Mr. Thomas:

On behalf of the California and Nevada Credit Union Leagues, I appreciate the opportunity to comment on the proposal by the Office of Government Ethics (OGE) that would prohibit executive branch employees from relying on the gift exceptions for gifts received from “registered lobbyists and lobbying organizations,” including invitations to “widely attended gatherings.” By way of background, the California and Nevada Credit Union Leagues (the Leagues) are 501(c)(6) individual membership organizations, representing the interests of more than 400 credit unions and their 10 million members. The Leagues currently have two registered federal lobbyists on staff.

### **Summary of the Proposal**

The proposal would amend the OGE rules to prohibit executive branch employees from relying on the gift exceptions for gifts received from “registered lobbyists and lobbying organizations” (collectively referred to as “lobbyists”). More specifically, the proposal would preclude use of the “widely attended gathering” exception where the gift is offered to the employee by a lobbyist. In addition, where the gift is offered by a lobbyist, the proposal would not permit an employee to use the \$20 de minimis exception or the social invitation exception. However, the proposal would not affect the ability of an employee to accept offers of free attendance in connection with official speaking engagements. Gifts include anything of value, including meals and allowing agency officials to attend meetings without charge if others have paid a fee to attend. The proposed limitations would not apply where the organization providing the gift relies solely on outside lobbyists and does not employ lobbyists on its staff.

### **The Leagues' Position**

The Leagues fully support OGE's mission to promote high ethical standards for executive branch employees. We understand OGE's concerns regarding some exceptions that may have been used on occasion to permit certain gifts (such as invitations to holiday parties or other social events) where the connection to the government's interest was arguable. In addition, we are encouraged by OGE's acknowledgement that certain widely attended gatherings can serve important government purposes; in the proposal OGE states 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." Clearly, OGE understands the valuable educational and professional development opportunities of these types of programs, and has proposed to exclude 501(c)(3) organizations from the definition of "registered lobbyist or lobbying organization." Unfortunately, trade associations have been left out of this proposed exclusion. We are concerned that OGE is doing so based on a misunderstanding of the important, multi-faceted role that trade associations play in the credit union industry, as well as virtually every industry that the government seeks to regulate.

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." Put simply, this assertion does not reflect the current reality of many trade associations, particularly credit union trade associations such as the California and Nevada Credit Union Leagues. While the Leagues do engage in advocacy, we also promote common interests, share best practices, and help resolve industry-wide issues of concern to our member credit unions (e.g., foreclosure mitigation and increased regulatory compliance burdens). In the area of education alone, the League will provide the following to our member credit unions in 2012:

- Over 120 educational opportunities for credit union staff and board members in the form of seminars, webinars, and conferences.
- Monthly or bi-monthly meetings and educational sessions through our 22 active chapters in California and Nevada. Our chapters are a key resource to help credit union staff and board members grow professionally, sharpen management skills, and nurture and preserve the credit union industry's unique cooperative spirit and philosophy.
- Over 50 technical and compliance bulletins, as well as economic and industry performance reports, and research papers.

These educational activities benefit our member credit union in exactly the same way as educational activities provided by 501(c)(3) organizations such as professional associations, scientific organizations, and learned societies. In addition, government employees tasked with promulgating regulations definitely benefit from attending programs where they can learn about latest developments, see new product demonstrations, and understand how credit unions and other financial institutions might be impacted by rulemaking. At the same time, our credit unions have the opportunity to learn more about agencies' interests and processes and are better prepared to comply with federal regulations. This is especially important given the increased regulatory responsibilities imposed by passage of the Dodd-Frank Act and the creation of the Consumer Financial Protection Bureau.

While the Leagues appreciate the proposal's provision 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.

In closing, I appreciate the opportunity to share our comments and concerns. The Leagues strongly urge OGE to revise its proposed exception for gifts to allow federal employees to attend educational programs and events held by trade associations, as is permitted for 501(c)(3) organizations.

Sincerely,

A handwritten signature in black ink, appearing to read "Diana R. Dykstra", with a large, stylized flourish at the end.

Diana R. Dykstra  
President/CEO