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Don Fox
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1201 New York Avenue, NW
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RE: RIN 3209-AA04

[Proposed Amendments to Part 2635: Limiting Gifts from Registered Lobbyists and Lobbying Organizations]

Dear Mr. Fox:

The American Veterinary Medical Association (AVMA) appreciates the opportunity to comment on RIN 3209-AA04 Proposed Amendments Limiting Gifts from Registered Lobbyists and Lobbying Organizations. Based in Schaumburg, Illinois, the AVMA is a 501(c)(6) tax-exempt organization established in 1863 to advance the science and art of veterinary medicine. The Association's more than 81,000 member veterinarians are engaged in a wide variety of activities dedicated to advancing the science and art of animal, human, and public health. The AVMA's Governmental Relations Division (GRD) is based in Washington, DC and is responsible for educating Congress and the Executive Branch about issues related to veterinary medicine, animal health and welfare and public health. The GRD employs four federal registered lobbyists, and houses the American Veterinary Medical Association Political Action Committee (AVMAPAC).

The AVMA commends the Office of Government Ethics in its efforts to promote high ethical standards for all executive branch employees. The ethical lapses cited in the proposed rule should never have occurred, and the AVMA supports common sense rules to guide federal employees and stakeholders to prevent such egregious behavior from happening in the future.

Proposed section 3635.203(h) defines the phrase "registered lobbyist or lobbying organization" as any "lobbyist or organization that is currently registered under the Lobbying Disclosure Act (LDA) or identified as a lobbyist in a registration." The proposed rule would retain the Executive Order 13400 definition that "registered lobbyist or lobbying organization covers not only lobbying firms that provide services to others but also organizations that employ in-house lobbyists to lobby on behalf of the organization itself." The AVMA would fall into the latter category. While we appreciate the exclusion for nonprofit professional associations, scientific organizations and learned societies engaging in educational or professional activities in proposed section 2635, the exclusion would only apply to "gifts made in connection with the entity's educational or professional development activities."

The commentary to the proposed rule makes it clear that “gifts of free attendance” to purely social events (gala balls, fundraisers, parties, etc.) would be prohibited. The concern about these events, as outlined in the commentary, is that the federal employee will develop a cozy relationship with the organization such that the relationship will improperly influence the performance of official duties. However, the proposed rule would operate to restrict federal employees who are AVMA members from participating in association social events that are offered free of charge to all members, unless the federal employee paid “market value” for the event (5 CFR § 2635.203(b)(9) – “anything for which market value is paid by the employee” is not considered a gift) or the social event involved only soft drinks appetizers (5 CFR § 2635.203(b)(1) – “modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as part of a meal” are excluded from the definition of a “gift”). This prohibition seems overly broad where the event is aimed at promoting member interaction and it unnecessarily restricts federal employees from participating in legitimate association activity.

For example, twice a year the AVMA President holds a President’s Roundtable in Washington, DC. This luncheon provides the AVMA President and leadership the opportunity to interact with AVMA member veterinarians, including federal veterinarians. The Roundtable may, or may not qualify as an “educational or professional development activity.” Under the proposed rule, federal employees can no longer rely on the \$20 de minimis exception (5 CFR § 2635.204(a)), the “widely attended gathering” exception (5 CFR § 2635.203(g)(2)), or the “social invitation” exception (5 CFR § 2635.203(i)), each of which previously may have allowed attendance at the President’s Roundtable. These same restrictions would apply to receptions held by the AVMA that involve more than “modest items of food and refreshments.”

The AVMA also has concerns regarding federal employees speaking at the AVMA Convention, our annual continuing education meeting. The issue of what is acceptable is not as clear and depends on why the federal veterinarian is speaking – is the speaker speaking as part of his/her official duties, or is the speaker speaking as a private citizen with specific expertise in an area of veterinary medicine? If it is the former, the commentary to the rule makes it clear that the speaker could receive “free attendance on the day of an event when they are speaking or presenting information in an official capacity” (under these circumstances, free attendance is not a “gift”). If it is the latter, then free attendance would be problematic because the speaker is not speaking in his/her official capacity, and the exception for “speaking and similar engagements” under 5 CFR § 2635.204(g)(1) is no longer applicable under the proposed rule. Like the situation with the President’s Roundtable above, the proposed rule would limit the federal veterinarian’s (who are AVMA members) participation in AVMA member activities.

As a volunteer driven organization, the AVMA has numerous councils, committees and other entities that act in an advisory capacity to the AVMA Executive Board and House of Delegates (HOD). Like the AVMA Convention, federal veterinarian participation with councils and committees, or other governance entities, can be complex depending on the reason for their service and what they get in return from the AVMA. Some participate in their official capacities, such as certain House Advisory Panel members and the Uniformed Services seat in our HOD. These individuals provide critical input in their official capacity to AVMA leadership on matters related to animal and human health. Others participate simply because they are AVMA members, and their participation has nothing to do with their federal employment. We could not

find any federal regulations that addressed this issue directly – one regulation has been “reserved” but has not been drafted yet (5 CFR § 2635.806, titled “Participation in Professional Associations”), but federal employees are prohibited from engaging in any outside activities that conflict with their official duties (5 CFR § 2635.802) and may require prior approval (5 CFR § 2635.803). We are very concerned that the new rules will negatively impact the AVMA’s ability to benefit from the expertise of our federal veterinarian members, whether in their official capacity as federal employees, or private citizens.

The AVMA urges the Office of Government Ethics to reconsider the Proposed Amendments Limiting Gifts from Registered Lobbyists and Lobbying Organizations, as they may have serious ramifications for AVMA’s ability to interact with its members who are federal veterinarians.

Respectfully,



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AVMA President



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