

From: [REDACTED]
To: USOGE
Subject: Comment to Proposed Amendments to Part 2635
Date: Sunday, October 02, 2011 7:08:04 PM

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Office of Government Ethics, Suite 500
1201 New York Avenue, NW.
Washington, DC 20005-3917,
Attention: Richard M. Thomas, Associate General Counsel.
via email to: usoge@oge.gov

Comment to Proposed Amendments to Part 2635

Dear Office of Government Ethics

This is a comment on your proposed amendments limiting gifts from registered lobbyists and lobbying organizations, RIN 3209-AA04, published in the Federal Register at 76 FR 56330, 13 SEP 11.

I support the proposal's end to the previous exemptions and limitations on the reach of the prohibition of lobbyist gifts to government employees.

I oppose (and suggest that you delete) the proposed exclusions (at proposed 5 CFR 2635.203(h)(1)...(4)) from the definition of Registered lobbyist or lobbying organization. 501(c)(3) tax exempt organizations, institutions of higher learning, media organizations, and the listed nonprofit organizations should not be categorically excluded. If they otherwise meet the definition of Registered lobbyist or lobbying organization, then the high purposes of the gift prohibition should apply to them. Each of these categories of organization engages in lobbying, and the feared adverse effect (or the feared appearance of impropriety) of gift-lubricated lobbying are not assuaged by their tax-exempt status, their educational aspirations; and innovative interest groups would not shy from using such qualifications to weasel past the prohibition if these exclusions are permitted in the final rule.

Well beyond the scope of your proposed rule, of course, is the less-regulated practice of lobbyist gifts to legislators and employees of the Legislative Branch. Although Congress has seemed unable to apply or enforce rules as strict as yours on Legislative Branch personnel, please consider some regulation requiring Executive Branch employees to require of each lobbyist at each lobbying occasion, a list of gifts that lobbyist or lobbyist organization has caused or made to any legislator having appropriations or oversight authority over the lobbied Executive member or employee, or that has expressed any interest in the same subject being lobbied in that meeting, and any gifts to the employees who are subordinate to any such interested legislator. In this way, without presuming to tell Congress what to do, the Executive can make itself (and the administrative record of the lobbied matter) aware of the flow, number, and magnitude of related gifts. Lobbyists could disclaim any such gifts with a signed statement to the effect that there are and were no such gifts. Of course, this provision would be routinely violated by failures-to-list, until a particularly flagrant violation comes to light and is prosecuted, for instance under 18 U.S.C. 1001. Inserting such a provision in a proposed regulation might oblige a

report under the Congressional Review Act, which might result in Congressional action, which would highlight a previously inadequately-illuminated practice, whether the proposed rule ever takes effect or not.

Thank you for working to protect the integrity and reputation of the functioning of the Executive Branch, in serving the American public.

Sincerely,

A solid black rectangular redaction box covering the signature.