

December 8, 2011

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

VIA ELECTRONIC MAIL

Re: RIN 3209-AA04 (Standards of Ethical Conduct for Employees of the Executive Branch; Proposed Amendments Limiting Gifts from Registered Lobbyists and Lobbying Organizations)

Dear Mr. Fox:

The American Beverage Association (ABA) welcomes the opportunity to comment on proposed rule RIN 3209-AA04, which extends the lobbyist gift ban for political appointees to all executive branch employees.

The ABA is the national trade organization representing the broad spectrum of companies that manufacture and distribute non-alcoholic beverages in the United States. Our members are producers, marketers and distributors of virtually every non-alcoholic refreshment beverage, including bottled waters, teas, sports drinks, energy drinks, water beverages, fruit juices, fruit drinks, milk-based beverages, full-calorie carbonated soft drinks, mid-calorie carbonated soft drinks, and diet carbonated soft drinks. It is on behalf of our members that we submit these comments.

ABA is in full support of OGE's operating principle of high ethical standards for executive branch employees, and we agree that some limitations on exceptions that have been used in the past to permit certain gifts or party invitations are appropriate. Further, we are pleased to see that OGE has taken a nuanced approach to its proposed regulations and therefore acknowledges that certain widely attended gatherings can serve important purposes for a cross-section of people, including government employees. In drafting this approach into rule, OGE has crafted a proposed exception that allows government employees to accept invitations to attend educational and professional development activities held by Section 501(c)(3) organizations, higher education institutions, and nonprofit professional associations, scientific organizations and learned societies, without regard to the LDA registration status of these entities.

We are, however, disappointed to see that trade associations have been left out of the exception described above, and would strongly urge OGE to reconsider and add trade associations to the list of exceptions. Educational and professional development programs conducted by trade associations are virtually indistinguishable from those conducted by other types of organizations listed in the proposed rule.

For example, at our Association's 2010 trade show, InterBev, we held educational sessions that would be appropriate for a large cross-section of audiences, including government employees. Our educational sessions focused on topical regulatory issues, including the latest science and information related to contaminants, ingredients and issues related to sustainability and recycling. This information is invaluable to the government employees who make and enforce the rules that govern our industry – after all, our industry cannot function effectively unless governed by informed rules grounded in sound science.

The educational sessions at InterBev are only one example out of thousands of substantive educational programming offered by our allied trade associations. Policies that restrict interaction and knowledge-sharing between the government and trade associations are counter-productive to a strong and efficient economy. The effect would be to distance the Administration from the industries it regulates, rather than ensuring a productive working relationship in which all parties share expertise and work together to ensure the best outcome for public safety.

By excluding trade associations from this exception, OGE is sending the message that government employees should not seek education or dialogue with the industries they regulate. We believe OGE's approach should be driven by the principle of knowledge-sharing, to ensure that government regulations are not drafted in a vacuum and instead reflect the very best practices and most current information.

We urge OGE to revise the 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.

Respectfully submitted,

Sugan K. Neely

Susan K. Neely, CAE

President and CEO