



United States Department of Agriculture  
Office of Inspector General  
Washington, D.C. 20250



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TO: Office of Government Ethics

FROM: Phyllis K. Fong *Phyllis K. Fong*  
Inspector General

SUBJECT: Proposed Rule: Standards of Ethical Conduct for Executive Branch Employees,  
Gifts from Outside Sources (Regulation Identifier Number, 3209-AA04)

The Office of Inspector General (OIG) has reviewed the Office of Government Ethics' (OGE) proposed rule (Regulation Identifier Number (RIN), 3209-AA04) to revise the portions of the Standards of Ethical Conduct for Executive Branch Employees that govern the solicitation and acceptance of gifts from outside sources. See 5 C.F.R. Part 2635, Subpart B, Gifts from Outside Sources. We understand that the rules are being amended in large part to update and clarify existing provisions to more effectively advance the public confidence in the integrity of Federal officials. We would like to make note of one provision that may merit clarification.

OGE proposes to include an example to Section 2635.203(b) (Definitions) to provide clarification that this exclusion to the definition of "gift" for "modest items of food and refreshment" does not allow for the acceptance of alcoholic beverages. Specifically, the example in the proposed rule provides: "A Department of Defense employee is invited to a defense contractor's holiday party. Alcoholic beverages are served at the party. Attendance at the party would be a gift to the employee because alcoholic beverages are not modest items of food or refreshment." See Proposed Section 2635.203(b)(1), Example 1 to paragraph (b)(1).

While OIG does not oppose the rule that alcohol should not be considered a "modest item of food or refreshment", we recommend that OGE consider whether the example raises additional implementation questions. As written, the example suggests that employees know (or need to inquire) ahead of time whether alcohol will be served at a particular event; this may not be practicable. Further, it may be helpful to clarify whether, if the employee does not have an alcoholic beverage, the employee's attendance is nevertheless prohibited. Finally, with respect to the example, OGE may want to address whether, if the alcohol is served at a cash bar, employee attendance would be allowed. Again, we believe OGE might consider some clarification of this example on the point of alcoholic beverages not qualifying for the "modest items" gift exclusion.

We appreciate your consideration of our recommendations. Please feel free to call Christy Slamowitz, Counsel to the Inspector General, at (202) 720-9110 with any questions or concerns regarding this input.