

OGE Proposes Tighter Executive Branch Rules on Gifts from Lobbyists and Their Employers

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On September 13, 2011, the Office of Government Ethics (OGE) proposed to clean up Washington by banning most gifts from lobbyists and lobbyist employers to civil servants. Despite the involvement of designated ethics officials in almost all executive branch gift-receiving situations, the agency has decided that the risk of corruption or the appearance of corruption is too great to continue the commonplace exceptions described below.

In a rulemaking that follows President Obama's 2009 ethics Executive Order and the resulting ban on lobbyist and lobbyist employer gifts for political appointees, OGE proposes to extend most of these bans into the area of gifts for civil servants. The proposed gift regulations go beyond current bans on gifts from interested persons and bans on gifts given because of an individual's official position in that the proposed regulations would eliminate a number of widely used exceptions in situations where the gift donor is also a lobbyist or lobbyist employer.

The result of these regulations, if adopted, would be that lobbyists and employers of in-house lobbyists would not be able to take civil servants out to lunch or breakfast within the \$20 per gift limit/\$50 per year gift limit. Lobbyists and lobbyist employers also no longer would be able to invite civil servants to widely attended gatherings such as receptions and dinners. Lobbyists and lobbyist employers would no longer be able to extend social invitations to civil servants nor provide them with meals, refreshments, or entertainment in foreign areas.

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The proposed rules are somewhat different than those currently applicable to political appointees. Civil servants would still be able to accept, with respect to lobbyists and lobbyist employers, most if not all awards and honorary degrees and gifts resulting from outside business or employment activities. Moreover, civil servants would still be able to accept certain gifts related to permissible political activities, even if they are from lobbyists and lobbyist employers.

OGE's proposal would not, however, apply the stricter rules to entities that merely hire outside federal lobbyists. Instead, the stricter gift rules would only apply to persons registered as lobbyists or lobbyist employers under the Lobbying Disclosure Act (LDA) or listed as lobbyists on such LDA registrations. The stricter rules also would not apply to the following:

- 501(c)(3) organizations;
- Public institutions of higher education (even if they have not obtained 501(c)(3) status);
- Media organizations (although only with respect to their news activities); and
- Nonprofit professional associations, scientific organizations, and learned societies (although only with respect to a gift made in connection with the entity's educational or professional development activities).

Comments on the proposed rules are due by November 14, 2011. A copy of the notice of proposed rulemaking may be found at <http://www.gpo.gov/fdsys/pkg/FR-2011-09-13/pdf/2011-23311.pdf>.