



November 8, 2011

Office of Government Ethics

Suite 500
1201 New York Ave., N.W.
Washington, D.C. 20005-3917

Regulation Identifier Number (RIN) 3209-AA04

Attention: Don Fox, General Counsel and Acting Director, Office of Government Ethics

The USA Rice Federation (USA Rice) is submitting comments about the Office of Government Ethics' (OGE) proposed rule and amendments published September 13, 2011, in the Federal Register (vol. 76, No. 177), **RIN 3209-AA04**: Standards of Ethical Conduct for Employees of the Executive Branch; Proposed Amendments Limiting Gifts from Registered Lobbyists and Lobbying Organizations (5 CFR Part 2635). Thank you very much for the opportunity to comment.

U.S. Rice Industry Overview

The USA Rice Federation is the global advocate for all segments of the U.S. rice industry with a mission to promote and protect the interests of producers, millers, merchants, and allied businesses. The U.S. rice industry is a multibillion dollar business sector that provides jobs and income for not only producers and processors of rice, but for all involved in the value chain. Much of this economic activity occurs primarily in six states. In the rural areas of the Sacramento Valley in California, the Gulf Coast region of Louisiana and Texas, and the Mississippi Delta region of Arkansas, Mississippi, and Missouri, 3 million acres of rice, on average, are produced annually.

More than 128,000 jobs were supported directly and indirectly by rice production in 2009 and each \$1.0 million of rice produced supported 39.6 jobs nationwide. In 2009, rice contributed more than \$17.6 billion to U.S. wages, salaries, and profits. Rice was also responsible for more than \$34 billion of economic output nationally. About half of the U.S. crop is exported annually and approximately half is used domestically. Beyond the substantial economic and nutritional benefits of rice is the environmental dividend from winter-flooded rice fields that provide critical surrogate habitat for migratory waterfowl and other wetland-dependant species.

The USA Rice Federation is a 501(c) (6) entity, which is registered with and discloses lobbying information to the U.S. House of Representatives and U.S. Senate. USA Rice interacts with the executive and legislative branches of the federal government on policy and regulatory issues, including agricultural programs for farm safety net, conservation, and trade (domestic and foreign); budget; appropriations; and the environment. USA Rice also employs consultants to assist with its federally-related legislative and regulatory work.

The USA Rice Federation has hosted for many years industry functions during its annual Government Affairs Conference, held in Washington in February, and to celebrate National Rice Month in September.



Both events have been held on Capitol Hill and were deemed widely-attended. Members of Congress, Congressional staff, and federal employees have been invited and attended.

USA Rice members and staff also travel overseas for export-market-development purposes. Meetings with federal employees who are single-country or regional-trade specialists are an integral part of the market-development initiatives.

General Comments

Interaction between U.S. government officials in all branches and citizens must be held to the highest legal, moral, and ethical standards. As importantly, government officials and citizens must be bound by the same standards that the Congress legislates and the President promulgates. Equally as important, the standards that govern government-citizen interaction must be equitable, reasonable, and allow for open interaction and access.

Lobbying is a legitimate form of government-citizen interaction, whether it is done by registered or non-registered persons or lobbying and non-lobbying organizations. Registered lobbyists and lobbying organizations should not be treated differently from those who are not registered in terms of interaction with federal employees solely because that is their profession, which is inequitable and unreasonable.

Sections of the proposed rule generate strong concerns, in particular Section 2635.204 (g) (2), Exceptions for Widely-Attended Gatherings, and 2635.204 (i), Exceptions for Meals, Refreshments, and Entertainment from Private Entities in a Foreign Area.

Exception for Widely-Attended Gatherings, Section 2635.204 (g) (2), and Exception for Meals, Refreshments, and Entertainment from Private Entities in a Foreign Area, Section 2635.204 (i)

If federal-executive-branch officials are not allowed to attend widely-attended gatherings (WAGs) in the U.S. or partake of meals, refreshments, and entertainment overseas that are sponsored by registered lobbyists or lobbying organizations, government-citizen interaction is being restricted unreasonably and inequitably. The proposed rule, on page 56333, column 1, says, “The WAG exception, at least when used in connection with social events, can provide the opportunity for a lobbyist not only to discuss any pending issues with the employee but also to foster a social bond that may be of greater use in the long run.” In addition, on page 56334, column 1, the proposed rule says, regarding meals, refreshments, and entertainment, “OGE believes that the exception should not be a vehicle for registered lobbyists and lobbying organizations to entertain government employees with hospitality, which could raise some of the same concerns as those discussed above in connection with WAGs and social invitations.”

It is inherently wrong to deny one type of individual or organization, i.e., those registered to lobby, the opportunity to interact with federal employees at the above referenced U.S. and overseas events simply because they are registered. OGE creates the impression that its ethical concern about WAGS and overseas meals, refreshments, and entertainment, including for appearance sake, are related to federal employees attending lobbyist-sponsored functions, but that those same ethical concerns morph into no concern at all when the event is not lobbyist-sponsored. If this impression is accurate, it would be beyond belief. If this impression is correct, it is an unintended insult to registered lobbyists and lobbying organizations and federal employees, who are



treated, respectively, as nothing more than ethically irresponsible predators or weak, unprincipled victims. OGE's basis for denying the exception for federal-employee attendance at lobbyist-sponsored domestic and overseas appears to lie, for example, in the proposed rule's statement, again on page 56333, column 1, "But, it is increasingly recognized that the more realistic problem is not the brazen quid pro quo, but rather the cultivation of familiarity and access that a lobbyist may use in the future to obtain a more sympathetic hearing for clients." Should one take from this statement and its underlying rationale that "cultivation of familiarity and access" are only unethical or create the appearance of unethical when the event sponsor is a registered lobbyist or organization? Should one also assume that non-registered persons or organizations do not develop familiarity and access with federal employees at WAGs or business meetings and that they are inherently incapable of cultivating "familiarity and access" with federal employees "to obtain a more sympathetic hearing for clients" simply because they are not registered?

If familiarity with and access to federal employees are the OGE's ethical concerns, then all who lobby, registered and non-registered alike, should not be allowed to have federal employees attend their sponsored events, either domestically or overseas. Should those who lobby be concerned that their issue discussions with federal employees would be unethical or appear unethical and be further restricted eventually because they occur in a federal office, in particular if the meetings continue over weeks and months and because the prolonged deliberations and interaction would be deemed to breed "familiarity and access"?

The opportunity for government officials and registered lobbyists or lobbying organizations that employ them to interact at what are otherwise acceptable WAGs or similar overseas events, except for the fact that they are sponsored by lobbyists or lobbying organizations, then federal officials and lobbyists are unfairly denied an occasion to learn more and understand more fully each others' viewpoints. It is as legitimate and appropriate for citizens, including those registered to lobby, to express viewpoints and talk business with federal employees at a WAG or similar overseas event as it is for them to express themselves in private meetings with federal employees in an office building.

Conclusion

If the "cultivation of familiarity and access" and the appearance of the same are the basis for the OGE's latest proposed gift-ban rule for executive-branch employees, then all appearances should be prohibited, for registered and non-registered alike. All interactions should be prohibited, too, with a lobbyist or lobbying organization, whether it be at a domestic WAG, overseas function, or a discussion in a federal office or other building.

Why is the nature of one event more or less suspect in terms of "the cultivation of familiarity and access" or the appearance of it simply because the sponsor is or is not registered to lobby? The proposed standard and its premise are inherently flawed and should not be finalized. They unnecessarily exceed the standard for equity and reason for government-citizen interaction.

The inherently dangerous risk of imposing more restrictions on federal employees and registered lobbyists and lobbying organizations based on the premise of "cultivation of familiarity and access" or the appearance of them is that at any point in time, any appearance can become suspect and be prohibited, be it at a lobbyist or non-lobbyist sponsored event or office meeting. This type of unmerited rationale can lead to total or near-total exclusion of government-citizen interaction for all, be they registered lobbyists or not and regardless of the type of event.



As an organization, USA Rice requires that its employees perform their duties using the highest ethical standards. We appreciate and support the work of OGE and all those who work diligently to maintain the highest ethical standards of behavior.

USA Rice hopes that the final rule that is issued for exceptions for widely-attended gatherings, Section 2635.204 (g) (2), and meals, refreshments, and entertainment from private entities in a foreign area, Section 2635.204 (i), will be equitable, reasonable, and allow for open interaction and access for registered lobbyists and lobbying organizations without further restriction.

Thank you for allowing comments about the proposed rule. If USA Rice can respond in any way regarding its comments, please call on us at any time.

Respectfully,

A handwritten signature in black ink that reads "Elizabeth Ward". The signature is written in a cursive, flowing style.

Elizabeth Ward
President and CEO
USA Rice Federation