

November 14, 2011

Office of Government Ethics
Suite 500
1201 New York Avenue, NW
Washington, DC 20005-3917
Attention: Richard M. Thomas, Associate General Counsel

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

On behalf of the 5,000 members of the American Road and Transportation Builders Association (ARTBA), I respectfully offer the following comments on the Office of Government Ethics' (OGE's) September 13 *Federal Register* proposed rule concerning Standards of Ethical Conduct for Employees of the Executive Branch; Proposed Amendments Limiting Gifts from Registered Lobbyists and Lobbying Organizations.

The purpose of OGE's proposed rule is to restrict executive branch employees of the federal government accepting gifts from registered lobbyists and lobbying organizations allowed under current ethics regulations. One such activity curtailed by the OGE proposal would be federal government employee attendance at "widely attended gatherings" where participation is deemed to be in the interest of the employing agency.

ARTBA is concerned that while OGE's proposal does take care to carve out an exception allowing for attendance at events held by 501 (c)(3) organizations, institutions of higher education, media organizations, nonprofit professional associations, and "learned societies," 501 (c)(6) trade associations are subject to the restrictions. OGE offers the rationale that while trade associations "may sponsor educational activities for their members and even the public, but the primary concern of such associations is generally not the education and development of a profession of members of a profession or discipline."

While OGE is correct in stating that trade associations exist primarily to advance the interest of their members, the same can be said of any of the groups OGE has chosen to exempt from its proposal. 501 (c)(6) organizations are not unique in the fact that they advocate positions on behalf of their members before the federal government. 501(c)(3) organizations, institutions of higher learning, media associations and all of the other exempted organizations advocate for and against positions of interest to their members as well. As the administration surely learned with earlier efforts to limit lobbyist interaction with federal employees, advocacy encompasses a great deal of activities beyond those conducted by people who register with the House and Senate as lobbyists.



Thus, it is intellectually dishonest for OGE to question the motive of an event hosted by a 501(c)(6) organization and not a 501 (c)(3) organization or an institution of higher learning—the driving force of all of these organizations is to advocate on behalf of a particular position or constituency.

Indeed, federal employees gain many benefits from ARTBA events. One of the constant challenges faced by federal regulators is establishing communication between themselves and the communities directly impacted by their policies. In fact, numerous federal agencies frequently form “advisory councils” in an attempt to overcome this challenge. ARTBA meetings provide a forum that allows regulators and policy makers to speak directly to people who have specialized knowledge about the industry they are regulating. This type of feedback and public interaction is in the spirit of what was called for in President Obama’s Executive Order on regulatory reform issued earlier this year. Simply put, the opportunities offered by trade associations, such as ARTBA, are just as beneficial as those offered by entities exempted from OGEs proposal.

Trade associations fulfill an essential niche in American society. They provide a forum by which diverse segments of a common industry can speak with a single voice. Again, using ARTBA as an example, we have eight different divisions which span all aspects of the transportation construction industry, including public officials, research institutions and contractors. ARTBA serves as a means of allowing these different segments of the industry to discuss best industry practices, obtain information about the latest industry-wide developments and speak as a collective entity on public policy matters directly affecting the transportation sector.

OGE should not single out trade associations while exempting a host of other entities which engage in the same sorts of educational and advocacy activities. ARTBA urges OGE to reconsider its proposal and allow the exemption for “widely attended gatherings” held by trade associations to continue.

Sincerely,

A handwritten signature in black ink that reads "T. Peter Ruane". The signature is written in a cursive, flowing style.

T. Peter Ruane
President & C.E.O