



November 14, 2011

Office of Government Ethics
Attention: Richard M. Thomas, Associate General Counsel
1201 New York Avenue NW, Suite 500
Washington DC 2005-3917

Proposed Amendments to 5 CFR Part 2635

Dear Mr. Thomas,

The United Soybean Board (“USB”) appreciates the opportunity to respond to the Federal Register Notice for written comments on Standards for Ethical Conduct for Employees of the Executive Branch, the Proposed Rule published in the Federal Register on September 13, 2011, under Regulation Identifier Number 3209-AA04a. For the reasons set forth below, we are concerned that the Proposed Rule would adversely affect the ability of Agricultural Marketing Service (“AMS”) employees at the U.S. Department of Agriculture (“USDA”) to effectively and efficiently administer and oversee the soybean checkoff program.

As you may know, the soybean checkoff was authorized by federal legislation, and is designed to strengthen the position of the soybeans in the marketplace, and to maintain and expand domestic and foreign markets for soybeans. The soybean checkoff is fully funded by mandatory assessments paid by soybean producers and is implemented by USB. United Soybean Board members are nominated by industry and appointed officially by the Secretary of Agriculture. AMS oversees the activities of USB in order to assure compliance with the legislation. USB reimburses USDA for the costs incurred by AMS to oversee the program.

Our understanding is that the Proposed Rule would impose the following new restrictions on all executive branch employees, including all AMS employees:

1. Employees will no longer be permitted to accept free offers of attendance at widely attended gatherings where the offer of attendance is offered by a registered lobbyist or lobbying organization;
2. Employees will no longer be permitted to accept offers of free attendance at social events where the offer is extended by a registered lobbyist or lobbying organization;
3. Employees will no longer be permitted to accept customary invitations of hospitality outside the United States where such invitations are offered by registered lobbyists or lobbying organizations; and

4. Employees will no longer be permitted to accept gifts of any value, including those of *de minimis* value (defined as \$20 under the current rules), when offered by a registered lobbyist or lobbying organization.

We are concerned that these restrictions would adversely affect the ability of AMS employees to properly administer and oversee the soybean checkoff program. Most importantly, the attendance of AMS employees at events and gatherings where they would learn information about the programs they administer and meet with checkoff board members, staff, and others is likely to be significantly curtailed.

For example, AMS employees would no longer be permitted to accept free offers of attendance at industry-sponsored trade shows and conferences. USB frequently co-sponsors or participates in joint industry meetings with industry organizations that are also registered lobbying organizations, such as the American Soybean Association. These events provide the opportunity for AMS employees to interact with the soybean industry and to effectively oversee the soybean checkoff. Because many of these events are hosted by organizations that lobby, AMS employees would be barred from accepting free invitations from the sponsors to attend these events. As a result, AMS employees will be deprived of these valuable opportunities to work and meet with the industry on shared issues of importance and the checkoff will suffer because of it.

As the Office of Government Ethics itself states in the Proposed Rule, widely attended gatherings often include substantive events that provide legitimate educational and professional development benefits that further the interests of the agency. These events and gatherings provide forums for information exchange and education that otherwise would not exist. While the restrictions in the Proposed Rule do not categorically bar employees from attending widely attended events, the restrictions would foreclose currently-existing opportunities for employees to attend events which clearly further the interests of AMS in effectively and efficiently administering the checkoff.

AMS employees work in tandem with board members, employees of the board, and others to properly administer the checkoff. The Proposed Rule would significantly limit the social invitation exception in the regulations governing executive branch ethical conduct. This exception allows government employees and others to interact in a more relaxed social setting. We have found that these social settings offer the valued opportunity to meet with AMS officials who oversee the checkoff and discuss shared matters of importance. The Proposed Rule would restrict already limited opportunities for these individuals to meet in person to discuss matters important to the checkoff. By limiting this exception, the Proposed Rule would make it more difficult for board members and checkoff employees and others to meet with the officials that oversee the checkoff

In addition, employees would be restricted from accepting gifts of even *de minimis* value, and gifts offered as customary invitations of hospitality outside the United States. With respect to the

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latter restriction, it is clear the damage that could be done to important business relationships when an American government official is forced to turn down traditional offerings of hospitality and offend the foreign nationals with which he or she is meeting.

We are deeply concerned that the proposed restrictions are likely to damage AMS' ability to effectively oversee and administer the checkoff programs. We appreciate the opportunity to share our concerns with you and hope that we can work together to find a more workable solution.

Sincerely,


John Becherer
CEO, United Soybean Board