

**From:** Youel Page, Kathryn [<mailto:pageky@state.gov>]  
**Sent:** Thursday, November 10, 2011 5:27 PM  
**To:** USOGE; Julia L. Eirinberg  
**Cc:** Visek, Richard C; Alexander, MJ  
**Subject:** Proposed Amendments to Part 2635

Julie: please find the attached comment from the Department of State. Please let me know if there are any questions. regards, Katy

Katy Youel Page  
Senior Ethics Counsel  
Office of the Legal Adviser  
U.S. Department of State  
202-663-3191

Comment to proposed OGE rule amendment on 5 CFR 2635.

RIN 3209-AA04

The State Department submits these comments in response to the Proposed Amendments Limiting Gifts from Registered Lobbyists and Lobbying Organizations.

We have reviewed the proposed rule that would ban the use by all executive branch employees of certain gift exceptions in 5 CFR 2635 subpart B when the provider is a lobbyist.

The State Department is opposed to inclusion in this ban of use of the exception for “meals, refreshments and entertainment in foreign areas,” found in 5 CFR 2635.204(i). In addition, to the extent the event is occurring in foreign areas, the State Department opposes inclusion of the ban in the “widely attended gathering” exception in 5 CFR 2635.204(g), the “social invitations from persons other than a prohibited source,” exception in 5 CFR 2635.204(h) and the “\$20 or less” exception.

Based on the Department’s review, it is clear that implementation of the proposed gift ban in overseas areas will have an immediate and detrimental effect on performance of the Department’s diplomatic and advocacy work. In particular there is broad concern that extending this ban to employees overseas could have the unintended consequence of hurting trade promotion efforts at our posts.

A key function of USG personnel posted overseas is promotion of U.S. business interests. Career personnel often collaborate with a broad range of U.S. companies to advocate on behalf of U.S. business overseas. Given the definition of “lobbyist,” which includes companies that have one in-house lobbyist

on staff, collaborative efforts with many U.S. companies via trade fairs, industry expositions and other events would be hindered.

Furthermore, as recognized at the creation of the “meals, refreshments and entertainment in foreign areas” rule, key contacts and discussions with foreign governments and private stakeholders (business and NGO) occur at events and meals sponsored by private sector entities overseas. It is in these more informal settings that career executive branch personnel are able to network and gather information in furtherance of the foreign affairs diplomatic and advocacy function.

Employee attendance at these events strictly adheres to ethics rules, e.g. management counselors or other officials review the invitations and make a determination that attendance is in the interest of the Department. Such rules will continue to be followed, making sure that Executive Branch employees only accept “gifts” within the strict parameters of the exceptions described in 5 CFR 2635 subpart b.