

December 12, 2011

DELIVERED VIA EMAIL: usoge@oge.gov

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

RE: Comments on RIN 3209-AA04 – Proposed Amendments Limiting Gifts from Registered Lobbyists and Lobbying Organizations

Dear Mr. Thomas:

Reed Elsevier Inc. appreciates this opportunity to provide comments in response to the request for public comment by the Office of Government Ethics (OGE) regarding the proposed amendments to the Standards of Ethical Conduct for Employees of the Executive Branch limiting gifts from registered lobbyists and lobbying organizations.

Reed Elsevier is one of the world's leading publishing and information companies, providing professional information solutions to business, government, legal, and academic clients. U.S. businesses include Elsevier - the world's leading publisher of science and health information; LexisNexis – a leading provider of information and services solutions to professionals in the government, legal, risk management, corporate, law enforcement, accounting, and academic markets; Reed Business Information – a publisher of business-to-business magazines, directories, and newsletters; and Reed Exhibitions – a leading organizer of trade shows and exhibitions. Reed Elsevier's products and services are used extensively by federal government agencies.

While we support OGE's mission to promote high ethical standards for Executive Branch officials, we are concerned that the proposed changes to the gift rules will hinder communication and information exchange between Executive Branch officials and the private sector by discouraging federal government employees from attending meetings, conferences, and other forums sponsored by the private sector. Of particular concern is the elimination of the exception for "widely attended gatherings" and the exception for meals or other items valued at \$20 or less per occasion. These proposed changes will have a chilling effect on federal

agency participation in events sponsored by the private sector. As discussed below, this will result in agency officials losing many educational and professional development opportunities.

I. The Proposed Rules Will Hinder Communication between the Private Sector and the Federal Government

Many of our businesses routinely hold meetings, conferences, and receptions for our clients to make them aware of new issues impacting a particular sector. For example, our LexisNexis business conducts information sharing sessions with Executive Branch employees. During these events, one or more Executive Branch employees, typically from a law enforcement agency, meet with LexisNexis staff to discuss current issues and experiences on topics such as privacy, data security, cybersecurity, and fraud. These are two-way exchanges where Executive Branch employees talk about national and international threats or trends. These exchanges help both organizations, alerting LexisNexis to possible threats and apprising law enforcement officials about actual experiences in the marketplace.

It is common for these sessions to last for several hours, during which food and refreshments are made available. Absent an applicable exception, such as the exception for meals and other items of *de minimis* value, it would not be permitted to offer even a low-cost lunch such as a sandwich or salad.

In addition, receptions hosted by the private sector provide an excellent opportunity for key stakeholders, including government agencies, non-governmental organizations, and private-sector companies to communicate on a wide-range of important issues. These receptions are often hosted in conjunctions with meetings or conferences and provide an excellent forum for informal information exchange that helps to break down barriers and promote creativity and innovation. Without the exception for “widely attended gatherings,” federal government employees would generally be precluded from participating in these events.

The proposed changes to the gift rules would particularly impact those companies like Reed Elsevier that have a large federal government customer base and work with the federal government on a regular basis. Under the proposed changes to the gift rules, businesses that employ one or more registered lobbyists would not be permitted to provide even *de minimis* meals to Executive Branch employees at meetings, or to invite Executive Branch employees to participate without charge in a widely attended gathering, even where those employees of the business who are registered lobbyists are not present.

II. The Proposed Rules Will Diminish the Effectiveness of Education and Training Programs

The current proposal would amend 5 C.F.R. 2635 by limiting application of the gift exceptions in 5 C.F.R. 2635.204 for all Executive Branch employees, including the exceptions for *de minimis* gifts (valued at \$20 or less per occasion and \$50 per year in the aggregate) and widely attended

gatherings. As proposed, the new rule would not permit Executive Branch employees to use these exceptions if the gift or gathering is provided by a registered lobbyist or lobbying organization. While we recognize that the intent behind the proposed regulations is to remove outside influences that might unduly influence government employees, the proposed changes go further than necessary, and in doing so create compliance “traps” that could impugn the motives of innocent actors, and, in the worst case, harm individuals and businesses. Application of the proposed rules will also deprive Executive Branch employees of important education and training opportunities.

Most, if not all, businesses that hold federal contracts also employ persons who are required to be registered under the Lobbying Disclosure Act (LDA), causing such organizations to be classified under the proposed rules as a prohibited “lobbyist or lobbying organization.” 5 C.F.R. 2635.203(h). Such classification means that even where there is no direct connection between an event and the organization’s registered employee lobbyist—such as a training program designed to educate government employees and others on how to use a product or service contracted for by the agency— it could be a violation for the government employee to accept a meal offered as part of the training program.

LexisNexis frequently hosts such specialized training programs, inviting attendees from both the private sector and government agencies to attend. These programs, which are provided free of charge to participants, are specially designed for professional researchers who are looking for ways to optimize their effectiveness when using the technological tools made available to them, learning how best to construct complex searches or to utilize specialized databases. Some programs target members of the Homeland Security or law enforcement communities, others target anti-fraud investigators at various federal agencies. Still others are designed for legal researchers and attorneys. The exceptions that exist in the gift rules today generally allow for Executive Branch employees to attend these training programs.

A low-cost breakfast or lunch is often provided in connection with these training programs. We ensure that the value of the meal is below the \$20 limit, thus qualifying for the *de minimis* exception that exists today. The meals are offered to facilitate the event and to optimize the effectiveness of the training. The *de minimis* value of these meals does not adversely influence the behavior or decisions of any Executive Branch employee. Please note that as LexisNexis does not typically include these training sessions in the cost of the contracts for the services, they do not clearly fit within the exemption for services provided under a government contract.

The proposed changes to the gift rules could well lead to a lack of attendance and participation in training and related programs by government employees, reducing the efficiency of these employees in leveraging technology and tools that have been purchased by the government and intended to improve job performance.

While OGE recognizes and acknowledges the legitimacy of certain education and training programs, OGE nevertheless proposes to allow Executive Branch employees to attend such programs only if sponsored by specific types of entities, such as: (i) nonprofit professional associations (although apparently excluding nonprofit trade associations), scientific organizations, and learned societies under the proposed exemption for the educational and professional development activities of such entities; and (ii) Section 501 (c)(3) charities and Section 1001 institutions of higher learning, under the broader exemptions that allow those entities to be treated the same as non-lobbyist organizations, even if they are registered under the LDA. The OGE does not address the differences in the types of education and training that may be available in the commercial marketplace, when compared to the programming offered by these various exempted entities, nor the fact that the training afforded by the business community is also of value and is often of more immediate and direct importance to governmental operational effectiveness. Neither does the OGE adequately explain or justify the disparate treatment of bona fide education and training events offered by these various nonprofit and for-profit entities, each of which may employ lobbyists.

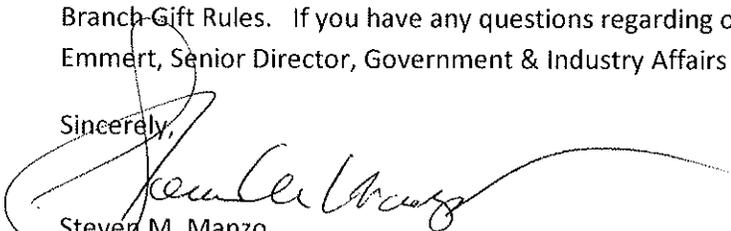
The shortcoming of the proposed exceptions is the failure to accommodate conferences and education and training programs sponsored by for-profit organizations on the same basis as those sponsored by exempted non-profit organizations. Government employees need to be able to participate in education and training programs offered by their suppliers and contractors, not only training from a limited number of non-profit organizations.

III. Conclusion

While we support OGE's mission to promote high ethical standards for Executive Branch officials, we believe that the proposed changes to the gift rules will hinder communication and information exchange between Executive Branch officials and the private sector. For the reasons discussed above, Reed Elsevier respectfully requests that the proposed rules be modified to: 1) continue to allow federal government employees to attend "widely attended gatherings" sponsored by private-sector entities classified as "lobbyists or lobbying organizations;" and 2) continue to allow federal government employees to accept *de minimis* value meals (\$20 or less per occasion/\$50 or less per year) from private-sector entities classified as "lobbyists or lobbying organizations."

We appreciate the opportunity to comment on the proposed changes to the Federal Executive Branch-Gift Rules. If you have any questions regarding our comments, please contact Steven Emmert, Senior Director, Government & Industry Affairs at 202-857-8254.

Sincerely,



Steven M. Manzo
Vice President, Government Affairs