

August 7, 1998
DO-98-022

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Stephen D. Potts
Director

SUBJECT: Proposed Minor Amendments to Standards of Conduct

Over the past six years, the Office of Government Ethics (OGE) has provided interpretive advice to agency ethics officials on the application of the standards of ethical conduct (5 C.F.R. part 2635), as specific fact patterns have arisen. Based thereon, we have now determined that selected provisions of the standards should be amended, in order to codify some of that advice and clarify regulatory meaning.

Therefore, at 63 Fed. Reg. 41476 - 41477 (August 4, 1998), OGE has published proposed minor amendments to subpart B (Gifts From Outside Sources) of the standards of conduct regulation. The preamble describes these changes and the need for them.

The amendments propose to clarify the meaning of gifts given "because of official position" at § 2635.203(e), by emphasizing that the regulatory intent was to restrict such gifts only where they would not have been solicited, offered, or given had the employee not held the status, authority or duties associated with his Federal position. Some had been applying the restriction too broadly, to encompass gifts based on the mere happenstance that the recipient was a Government employee.

The amendments also propose to clarify the meaning of language in § 2635.204 that gifts accepted under one of the specified exceptions will not be deemed to violate the 14 general principles of ethical behavior. The intent of this section was that appearance concerns will not preclude use of the gift exceptions or require an employee to reject a gift which otherwise falls within one of the exceptions.

Finally, the amendments propose to clarify the exception at § 2635.204(a) for gifts aggregating \$20 or less per occasion, by specifying that its intent was to permit gifts worth \$20 or less per source per occasion, since there may be several otherwise prohibited sources at a single event.

Please see the regulatory preamble for more details regarding these proposed changes. Any comments must be submitted to OGE not later than October 5, 1998. Later this summer, OGE

plans to publish minor proposed amendments to subpart F (Seeking Other Employment) and subpart H (Outside Activities), which will be discussed in a separate DAEOgram at the time of publication in the Federal Register.