

might be accepted either by an individual employee or by the agency. A choice of authorities would then be available.

Proposed § 2601.104(b)(1) would state the relationship of this authority to gifts of training, expenses for training and other benefits made to an employee pursuant to 5 U.S.C. 4111. Section 4111 permits employees to accept payments from certain qualifying organizations without regard to the supplementation of salary restrictions contained in 18 U.S.C. 209. Regulations implementing the statute are found at 5 CFR 410.501–410.503. The regulation at 5 CFR 410.501(b) provides that:

This subpart does not limit the authority of an agency head to establish procedures on the acceptance of contributions, awards, and payments in connection with any training and meetings that are outside the scope of this subpart in accordance with laws and regulations governing Government ethics and governing acceptance of travel reimbursements from non-Federal sources.

Thus, in a case where the payment qualifies under section 4111 and is made to an individual employee, OGE's agency gift authority and this proposed regulation would not apply because they concern gifts to the agency. *See also* the gift exception in the Standards of Ethical Conduct, at 5 CFR 2635.204(l)(1), for such gifts. However, section 4111 would not preclude OGE, as an agency, from accepting gifts of training for its employees that were outside the scope of that provision. Where such a gift is made to the agency, this proposed part would apply. Or OGE may elect to use this authority in instances where a gift could not be accepted by an employee because it is outside the scope of section 4111. For example, section 4111 applies only if the source is a tax exempt organization described in section 501(c)(3) of title 26 of the United States Code; other tax exempt organizations (described in other subparagraphs of 26 U.S.C. 501) are not within the scope of section 4111. Moreover, OGE's authority could be used in conjunction with, or as a supplement to, the payments to individual OGE employees for training.

Proposed § 2601.104(b)(2) would state the relationship of this authority to gifts to an agency employee made by a foreign government or organization, or representative thereof, and accepted in accordance with the Foreign Gifts and Decorations Act, 5 U.S.C. 7342. Section 7342 provides an exception by consent of Congress which permits employees to accept certain gifts that would otherwise be barred by the Emoluments Clause of the Constitution (Article I, Section 9, Clause 8). This agency gift acceptance

authority would not alter the authority conferred by section 7342; *see also* the gift exception in the Standards of Ethical Conduct, at 5 CFR 2635.204(l)(2), for such gifts.

Proposed § 2601.104(b)(3) would state the relationship of this authority to gifts made to an employee in accordance with the Hatch Act, as revised, in subchapter III of 5 U.S.C. chapter 73. Gifts of meals, lodging, transportation, attendance at events, and other benefits given to an employee who is permitted to accept them under the Hatch Act are accepted by the employee in a personal capacity. This authority would not alter the authority of the Hatch Act; *see also* the gift exception in the Standards of Ethical Conduct, at 5 CFR 2635.204(f), for such gifts.

Proposed § 2601.104(b)(4) would state the relationship of this authority to gifts made to an employee personally that may be accepted under the gift rules of the Standards of Ethical Conduct, as codified at subparts B and C of 5 CFR part 2635. Whenever a gift is accepted by an employee personally pursuant to any particular gift exception, this part does not apply. There may be situations where alternatively the gift could be made to the agency; in such a case, the OGE gift authority might apply. For example, the sponsor of a conference at which an OGE employee is a speaker might give the OGE employee a book about ethics in government (with a market value of \$20 or less), which the OGE employee could accept under the gift exception in the Standards of Ethical Conduct, at 5 CFR 2635.204(a), for such gifts.

Alternatively, the sponsor of the conference might give the book to OGE, for OGE to place in its library.

5. Proposed § 2601.105 would set forth definitions applicable to this part.

Proposed § 2601.105 would define the term "Administration Division" to mean the Administration Division of the Office of Government Ethics.

Proposed § 2601.105 would define the term "agency" to mean the Office of Government Ethics (OGE).

Proposed § 2601.105 would define the term "authorized agency official" to mean the Director or the Director's delegatee.

Proposed § 2601.105 would define the terms "Director" to mean the Director of OGE, and the term "employee" to mean an employee of OGE.

Proposed § 2601.105 would define the term "gift." The definition would follow the definition set forth in the Act. Particular categories of gifts referenced in the definition in the Act are proposed to be further defined.

Proposed § 2601.105 would define "money" to include currency, checks, money orders or other forms of negotiable instruments. Note that although the Act authorizes the acceptance of money without limitation, as a matter of policy as set forth in proposed § 2601.103(e), OGE would not accept gifts of currency.

Proposed § 2601.105 would define "personal property." The definition of personal property is intended to cover all forms of personal property. It would include both tangible and intangible property. Some of the types of tangible personal property that might be accepted by OGE would include books, videotapes, training media, electronic training games and other educational materials, office and other supplies, as well as equipment such as computers, printing and copying equipment, cameras and recording equipment, visual and graphics materials, and exhibits. The definition would also cover tangible gifts of consumable or perishable products. The definition would also cover all forms of intangible property, including securities, options and warrants. It would also cover, for example, permission to use copyrighted material without payment of a fee. An example of such use would be use of music or visual material in the production of ethics training videos.

Proposed § 2601.105 would define "prohibited source" by referencing the definition contained in the Standards of Ethical Conduct, at 5 CFR 2635.203(d).

Proposed § 2601.105 would define "services" to cover virtually any type of personal service. Some typical types of services that OGE might expect to accept and use as furthering the work of the agency would include communication-related services to conduct training. These might include broadcast studio services, technicians, and global uplink technicians in connection with training via satellite broadcasts. Training might also call for audio visual services, design and graphics services, and planning services. For retreats, this authority could be used to accept gifts of the services such as motivational speakers or management consultants. Other professional services such as instructional, consulting and advisory services might also be accepted. In connection with a conference, there might be a gift of food and catering services.

Proposed § 2601.105 would also define "use of facilities" to encompass every type of use of facility. It would cover, for example, the use of space such as a hotel ballroom or lodging, conference center, retreat center,