

OFFICE OF GOVERNMENT ETHICS**5 CFR Part 2601**

RIN 3209-AA21

Implementation of Office of Government Ethics Statutory Gift Acceptance Authority**AGENCY:** Office of Government Ethics (OGE).**ACTION:** Final rule.

SUMMARY: The Office of Government Ethics is adopting as final a proposed regulation implementing the agency gift acceptance authority contained in section 2 of the Office of Government Ethics Authorization Act of 1996, which authorizes OGE to accept gifts and certain other items for the purpose of aiding or facilitating the work of the agency and which requires the Director of OGE to issue regulations establishing criteria for determining whether the exercise of this gift acceptance authority is appropriate. This rule states the policy regarding the use of this authority, provides definitions of key terms, establishes guidelines for the solicitation and acceptance of gifts, states certain conditions for acceptance and use of gifts, and establishes accounting requirements. Although this rule implements authority that is specific to OGE, it addresses several agency gift acceptance issues of general concern to executive branch agencies. Therefore, it could provide guidance to other agencies in administering their gift authority.

EFFECTIVE DATE: This rule will become effective November 21, 2003.

FOR FURTHER INFORMATION CONTACT:

Allison C. George, Associate General Counsel, Office of Government Ethics, Telephone: (202) 482-9300; TDD: (202) 482-9293; FAX (202) 482-9237.

SUPPLEMENTARY INFORMATION: In this rulemaking document, OGE is adopting final agency gift acceptance authority regulations, for codification at 5 CFR part 2601. On May 5, 2003, at 68 FR 23875-23883 (as separate part VII), OGE published a proposed rule that would implement section 2 of the Office of Government Ethics Authorization Act of 1996 (the 1996 Reauthorization Act), Pub. L. 104-179, 110 Stat. 1566, which amended the Ethics in Government Act of 1978 (the Ethics Act), as codified at 5 U.S.C. app. § 403(b). The proposed rule invited comments from the public to be received by OGE on or before August 4, 2003. No comments were received. Therefore, OGE is finalizing this rule without change. For additional background information and a

discussion of the regulatory provisions, interested parties may consult the preamble to the proposed rule, which was published in the **Federal Register** at 68 FR 23875-23883.

Executive Order 12866

In promulgating this final regulation, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulation as set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This regulation has not been reviewed by the Office of Management and Budget under that Executive order since it is not a significant regulatory action within the meaning of the Executive order.

Executive Order 12988

As Director of the Office of Government Ethics, I have reviewed this final rule in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant economic impact on a substantial number of small entities because it primarily affects OGE itself and OGE employees.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this regulation would not significantly or uniquely affect small governments and would not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (as adjusted for inflation) in any one year.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain information collection requirements that require the approval of the Office of Management and Budget.

Congressional Review Act

The Office of Government Ethics has determined that this regulation involves a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and will submit a report thereon to the U.S. Senate, House of Representatives and General Accounting Office in accordance with that law at the same time this rulemaking document is

sent to the Office of the Federal Register for publication in the **Federal Register**.

List of Subjects in 5 CFR Part 2601

Conflict of interests, Government employees, Government property.

Approved: October 10, 2003.

Amy L. Comstock,

Director, Office of Government Ethics.

■ Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending subchapter A of chapter XVI of title 5 of the Code of Federal Regulations by adding a new part 2601 to read as follows:

PART 2601—IMPLEMENTATION OF OFFICE OF GOVERNMENT ETHICS STATUTORY GIFT ACCEPTANCE AUTHORITY**Subpart A—General Provisions**

Sec.

- 2601.101 Authority.
- 2601.102 Purpose.
- 2601.103 Policy.
- 2601.104 Relationship to other authorities.
- 2601.105 Definitions.

Subpart B—Guidelines for Solicitation and Acceptance of Gifts

- 2601.201 Delegation.
- 2601.202 Procedure.
- 2601.203 Conflict of interest analysis.
- 2601.204 Conditions for acceptance.

Subpart C—Accounting Requirements

- 2601.301 Accounting of gifts.

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978).

Subpart A—General Provisions**§ 2601.101 Authority.**

Section 2 of the Office of Government Ethics Authorization Act of 1996, amending the Ethics in Government Act of 1978, as codified at 5 U.S.C. app. 403(b), authorizes the Office of Government Ethics (OGE) to accept and utilize gifts for the purpose of aiding or facilitating the work of OGE.

§ 2601.102 Purpose.

The purpose of this part is to establish guidelines governing the implementation of OGE's gift authority by defining its scope and application, by prescribing the policies, standards and procedures that govern the solicitation, acceptance and use of gifts, and by setting forth accounting requirements related to the use of this authority.

§ 2601.103 Policy.

(a) *Scope.* The Office of Government Ethics may use its statutory authority to solicit, accept and utilize gifts to the agency that aid or facilitate the agency's