

## **Office of Government Ethics**

**89 x 2 -- 03/21/89**

### **Letter to a Private Individual dated March 21, 1989**

Thank you for your letter to our General Counsel of November 21, 1988, offering your thoughts on government employee participation in corporate-sponsored fund-raising events which benefit charitable, artistic, and other eleemosynary organizations.

As you noted, Executive Order 11222 has, since 1965, prohibited executive branch employees from accepting gifts and other things of monetary value from persons or entities having interests that may be affected by government agencies, including contractual, business, and financial relations or regulated activities. The Order does permit exceptions which are "necessary and appropriate" to agency work and employee responsibilities. Food and refreshments at certain widely attended gatherings is an example, as this Office indicated in its [informal advisory memorandum 87 x 13] opinion of October 23, 1987, which you cited.

I am concerned, however, that you misperceive the breadth of the exception which this Office has recognized may be adopted by agencies to permit employees to participate in and partake of food and refreshments at widely-attended gatherings of mutual interest. You suggest that, but for the lack of a consistently applied agency approval mechanism, it would be appropriate for agency employees to attend corporate sponsored fund raising events benefitting charitable, artistic and other eleemosynary organizations. The relevant exception, as discussed in the informal advisory memorandum of October 23, 1987, is for "instances where an agency may have a legitimate interest in permitting attendance at certain group events where food is served so that employees may be able to meet on a less formal basis and have an interchange of ideas with a variety of individuals, including members of nongovernment groups, legislators and other Government agency personnel, who are interested in, but may have divergent positions on, the same issues." Thus, one of the criteria is that there be an agency interest in the employee's attendance. In general, an agency's interest in a matter is circumscribed by the statutes that define its mission and the programs for which it is responsible. The fact that a particular cause may be worthy

is not, in itself, sufficient to establish an interest on the part of a particular Government agency. Moreover, charitable fund raising events are not customarily structured to facilitate an interchange of ideas.

Your letter also suggests that prohibited sources of entertainment can be diffused by using industry associations rather than individual companies or entities as sponsors. However, as noted in our [informal advisory memorandum 87 x 13] opinion of October 23, 1987, a professional, trade or business association is itself a prohibited source where a substantial majority of its members are themselves prohibited sources. The interjection of an association, therefore, may not eliminate the prohibition against attendance by an individual employee.

Aside from issues associated with sponsorship by prohibited sources, this Office has grave doubts as to the appropriateness of attendance at charitable fund-raising events by executive branch employees who are invited because of their official positions. Executive Order 11222 strictly prohibits an employee from taking any action which might result in or create the appearance of giving preferential treatment to anyone. By attendance at such events, the Government employee appears tacitly to be endorsing the beneficiary organization by assisting in its fund raising effort. Indeed, the thrust of your letter is that attendance by executive branch employees is essential to continued corporate sponsorship and support of charitable fund raising events. The prohibition against preferential treatment would dictate that agencies provide similar inducements on behalf of all such worthy endeavors, an effort for which there is no governmental authority.

Please let us know if you have additional comments, in light of my discussion herein of these prohibitions. Thank you for your interest in maintaining high standards of government ethics.

Sincerely,

Frank Q. Nebeker  
Director