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Description of document:	Commodity Futures Trading Commission (CFTC) Inspector General (OIG) Management Advisory Report, 2018
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FOIA Office

U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

June 18, 2020

RE: 20-00091-FOIA

This is in response to your request dated March 22, 2020, under the Freedom of Information Act seeking access to:

- 1) A copy of each Management Advisory, Management Advisory Memorandum, and Management Advisory Report produced by the CFTC Office of Inspector General since January 1, 2017.
- 2) A printout of the listing of Management Advisories, Management Advisory Memoranda, and Management Advisory Reports issued by CFTC OIG since January 1, 2010.

In accordance with the FOIA and agency policy, we have searched our records, as of March 23, 2020, the date we received your request in our FOIA office.

Regarding part one of your request, we have located 42 pages of responsive records. I am granting partial access to, and am attaching copies of, the accessible records. Portions of some pages fall within the exemptions to the FOIA's disclosure requirements, as explained below.

Some records contain personal information, which is exempt from release under FOIA Exemption 6 because individuals' right to privacy outweighs the general public's interest in seeing personal identifying information. 5 U.S.C. § 552(b)(6); *see also The Lakin Law Firm v. FTC*, 352 F.3d 1122 (7th Cir. 2003).

Regarding part two of your request, the list is: Management Advisory: Office of Financial Management, Management Advisory: Office of General Law, and Management Review Regarding Workplace Violence Policies and Incidence Response at the Commodity Futures Trading Commission.

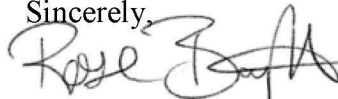
If you have any questions about the way we handled your request, or about our FOIA regulations or procedures, please contact me at 202-418-5912, or Jonathan Van Doren, our FOIA

Public Liaison, at 202-418-5505.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001, email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with this response to your request, you may appeal by writing to Freedom of Information Act Appeal, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 8th Floor, 1155 21st Street, N.W., Washington, D.C. 20581, within 90 days of the date of this letter. Please enclose a copy of your original request and a copy of this response.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosemary Bajorek", with a stylized flourish at the end.

Rosemary Bajorek
Attorney-Advisor

Management Advisory: Office of Financial Management

Prepared by the
Office of the Inspector General
Commodity Futures Trading Commission

July 5, 2018

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Executive Summary

(b)(6), (b)(6), has been accused of a variety of illegal, unethical, or unprofessional behavior, including backdating an official document and pressuring subordinates to do the same, pressuring subordinates to approve procurement expenditures under false pretenses or with disregard for procurement laws, unnecessary disclosure of personal medical information, and skirting CFTC time and travel policies.

(b)(6) denies acting illegally, unethically, or unprofessionally.

With regard to the most serious allegations, the Office of the Inspector General finds the complainants' credibility to be strong and the documentary evidence to be supportive of the complainants' allegations. Furthermore, (b)(6) has lost the confidence of subordinates, (b)(6), to certain lower-level employees who feel uncomfortable working with her due to what they view as unethical behavior on her part and pressure to engage in unethical behavior at her direction.

For these reasons, OIG believes (b)(6) continued service as (b)(6) is untenable. We recommend that (b)(6) be removed as (b)(6).

We note that (b)(6) staff have resisted pressure to engage in behavior they believed to be inappropriate, and the integrity of the CFTC's finances are not, to our knowledge, in question due to any of the alleged behavior addressed in this report.

Introduction

On November 30, 2017, the Chief of Staff and General Counsel requested the Inspector General's review of three complaints regarding (b)(6). The complaints included allegations that potentially called into question both the professionalism and integrity of the (b)(6). The complaints further indicated that multiple employees were pressured by (b)(6) to perform in ways they believed to be illegal, unprofessional, or unethical. Later that same day, the Executive Director separately briefed the Inspector General and Deputy Inspector General on the complaints.¹

¹ Some of the complainants contacted the Office of Human Resources (OHR) over a period of months during 2017. OHR sought guidance from the Executive Director and the General Counsel in November 2017, after the allegations clearly indicated possible misconduct by (b)(6) (beyond management issues). It appears that OHR and the Executive Director were in agreement that the allegations should be documented, and it appears that all agreed the complaints should be submitted to OIG.

This management review addresses the allegations received in November 2017, along with later allegations received during the course of our fieldwork (altogether, “the Complaint”). During our fieldwork, we determined that one of the allegations was serious enough to warrant an investigation. This management review discusses the management issues associated with that allegation. A report of investigation (ROI) will issue later.

Scope and Methodology

In order to complete this Management Review, OIG interviewed eleven CFTC officers and employees and reviewed relevant emails and other documents. We reviewed the allegations in the complaint as well as allegations later received after the start of our fieldwork. The time span of the allegations is therefore September 2015 through March 2018. Our fieldwork took place from December 2017 through June 2018.

All CFTC personnel were cooperative; however, (b)(6), who had participated in a voluntary interview on January 10 and a follow-up interview at her request on January 11, canceled, through counsel on January 30, 2018, a voluntary interview scheduled the following day. Further, counsel notified OIG that (b)(6) declined “any further voluntary interviews. If the interview becomes compelled, (b)(6) has decided to use counsel in a compelled interview.” (b)(6), through counsel, has cooperated with the subsequent OIG investigation.

Background: The Office of Financial Management

(b)(6)

(b)(6) the Office of Financial Management (OFM), within the Office of the Executive Director (OED). OFM consists of three sections: Budget and Planning; Procurement; and Accounting. Budget and Planning prepares the CFTC annual budget, meets extensively with OMB and Congressional staff to discuss CFTC's budget requests, and supports the Chairman in testimony before Congress relating to the CFTC proposed budgets. Procurement oversees all CFTC purchases of goods and services. Accounting prepares financial statements and oversees the accounting for all agency expenditures, including payments on office-space leases and travel by CFTC Commissioners and employees. OFM performs these tasks for all CFTC operations, including for the CFTC Whistleblower Office and Office of Customer Education and Outreach (using the CFTC Customer Protection Fund (CPF)). The activities of OFM's Budget and Planning, Procurement, and Accounting sections are subject to numerous and detailed statutes, regulations, and published guidance.

It is a serious matter that the integrity and professionalism of (b)(6) would be questioned by multiple employees. (b)(6)

(b)(6)

(b)(6)

(b)(6)

Allegations and Findings

1. Suborning the falsification, by backdating, of documents

a) October 1, 2015 – Contract Deobligation

On the evening of October 1, (b)(6) convened one of multiple OFM staff meetings that day addressing the possibility of an Anti-Deficiency Act violation. It is alleged that during this meeting, (b)(6) instructed one or both of (b)(6), (b)(6) at the time, and (b)(6), (b)(6) at the time and (b)(6) (b)(6), to deobligate money from a particular contract and to backdate the deobligation to September 30. (b)(6) refused. It is alleged that (b)(6) backdated an instruction to deobligate a contract. This was the most serious allegation, and the facts were not elucidated fully in our management review. This allegation will be the subject of a forthcoming ROI, along with other related events.

For purposes of this management review, we find that (b)(6) instructed employees in OFM to conduct business in a way that they believed was potentially illegal, unethical, or otherwise improper on October 1, 2015, and they felt pressured to execute these tasks after raising their concerns.

b) 2017 – IT Earmark Review Memos

The Complaint further alleges that in November 2017, (b)(6) asked a subordinate to prepare three memos purporting to be contemporaneous documentation of yearly formal reviews regarding CFTC IT earmark expenditures, for possible production in an OIG review or audit of IT spending. The subordinate sought clarification whether (b)(6) wanted a present-day memo, properly dated at the time of writing, documenting what reviews were done in the three

(b)(6)

years in question. The subordinate recalls (b)(6) rejected that interpretation and explicitly clarified that she wanted three OFM memos documenting formal discussions of IT spending for each of the past three years, each dated at the time of the purported memoranda.

The subordinate felt pressured to falsify documents, but declined to do so and offered to write a memo documenting the procedures followed with regard to IT expenditures for the past three years. (b)(6) backed off her backdated-documents request.

(b)(6) recalled that she made no such instruction to create and backdate memoranda, but instead asked OFM staff to locate relevant memos from prior years.

Although there is no contemporaneous written evidence of (b)(6) exact request, we find the allegation to be credible, given the detail and specificity of her subordinate's recollection of the specific event and its generally consistency with other allegations that do find documentary support. No backdated memos were created, to our knowledge, but (b)(6) subordinate felt pressure to engage in activity he deemed inappropriate and unethical.

2. Potentially violating or dishonestly skirting procurement regulations, including by misrepresentation or omission of General Counsel's advice

According to the Complaint, (b)(6) has, on multiple occasions, instructed procurement officers to approve contracts that involved what they believed were violations of procurement laws or regulations, and coached other CFTC employees how to request venue reservations so that invoices would facially appear in accord with procurement laws and regulations. These occasions are detailed below.

a) June 2016 – Park Hyatt Event

In June 2016, OIA was finalizing plans for an event to be held on July 19 at the Park Hyatt. A question arose whether water, mints, and light refreshments could be included in the reservation. According to OFM staff understanding of procurement law and regulations, they can only be paid from appropriated funds if inseparable from a room package. A complainant says he witnessed (b)(6) coach an OIA employee to ask a hotel to bill room and food as a package for this purpose. The complainant objected to (b)(6) who assured him she did not intend to instruct the OIA employee to do anything inappropriate. The complainant, a warranted contracting officer, thereafter was not invited to meetings on the matter, and was later told that the room and food were indeed a package deal. However, due to (b)(6) absence when the invoice was submitted, the complainant received the invoice, which had food billed separately

from the room. He told the OIA employee that the food charge would not be approved.⁹ Ultimately, the Chairman at the time agreed to cover the charge using money from his \$3,000 annual Representation Fund.¹⁰ According to the complainant, (b)(6) upon her return told him that he overreacted, he should not have gone to the Chairman's office, and everything would have been fine.

We make no finding regarding the proper application of procurement requirements in this situation; however, we can say with assurance that no potentially improper or illegal expenditure occurred due to the rectitude of her subordinate. We find that (b)(6) in this instance failed to prioritize strict adherence to procurement laws and regulations.

b) 2017-2018 – Conference in Kansas City

On November 15, 2017, the CFTC and Kansas State University announced a 2018 Agricultural Commodity Futures Conference to be held in Overland Park, Kansas (the "Conference" or "Ag Conference").¹¹ On December 12, 2017, CFTC and KSU executed a co-sponsorship agreement; (b)(6). The co-sponsorship agreement stated that CFTC would be responsible for "Costs for food and beverages provided at the Conference." (See Appx. 1, Co-sponsorship agreement).

On March 9, 2018, (b)(6) sought an opinion from OGC on food expenditures during the Ag Conference (See Appx. 2, CFO Buhler March 9, 2018, email). Specifically, (b)(6) expressed her belief that

...food may be provided at the conference for a light afternoon snack on the 1st day (4/5/18) of the conference given the amount of time between the beginning of the conference and the evening program and the desire to keep program participants engaged in the conference agenda. We also believe that is appropriate and allowable to serve a modest dinner during the evening program of speakers. On the 2nd day (April 6th), we believe it is allowable to serve a modest

⁹ "Congress has specifically provided for the personal pecuniary liability of certifying and disbursing officers, but, significantly, has not extended liability beyond these officers to those governmental employees whose work supports these functions." Matter of: Department of Defense--Authority to Impose Pecuniary Liability by Regulation, B-280764 (May 4, 2000)(see, e.g., 31 U.S.C. Sec. 3528(a)(4); 10 U.S.C. Secs. 9832, 9835(b); 10 U.S.C. Sec. 2773).

¹⁰ Representation and reception is a specific appropriation. The purpose of the appropriation is to permit certain expenditures primarily in the nature of "entertainment" which generally are not permissible under normal operating appropriations. Matter of: United States Trade Representative--Use of Reception and Representation Funds, B-223678, 1989 U.S. Comp. Gen. LEXIS 598, (June 5, 1989).

¹¹ CFTC Release No. 7646-17 (November 15, 2017).

breakfast in the morning as well as lunch during the noon-time program. We do not plan on serving any snacks on the 2nd day of the program. We anticipate that coffee, tea, water and other nonalcoholic beverages would be available to participants during the entirety of the conference. CFTC does not anticipate funding any refreshments during the evening Social. Please let us know if you concur with our assessment on the ability to serve food and refreshments at the conference.

(b)(6) included a draft conference schedule with the email (see Appx. 2).

The General Counsel initially responded on March 16, 2018 (see Appx. 3, OGC March 16, 2018, email), opining that the CPF could be used to fund the Ag Conference (without addressing payment of food, beverages, and meals). On March 23, 2018, (b)(6) told members of her staff that she had attended a meeting with OGC and an opinion on food would be provided shortly. (b)(6) conveyed the impression that OGC would approve everything requested except the snack or break food, and that the General Counsel had decided not to opine on the all-day beverage service and had decided to leave this decision to (b)(6). OFM staff stated their preference to document OGC approval of all food purchases, including the all-day beverage service.

The General Counsel states that OGC did not research and give a formal opinion on all-day beverage service; however, he relates that (b)(6) was clearly informed in that March 23 meeting that, if an opinion was requested, all-day beverage service likely would not be permitted.

Later in the day, OGC provided the promised opinion on payment for food at the Ag Conference (see Appx 4, OGC March 23, 2018, email). OGC concluded that it would be permissible “to use appropriated funds, i.e. the CPF,” for “the evening meal on the first day and the breakfast on the second day of the conference.” This email did not address (b)(6) request to provide “lunch during the noon-time program,” and did not address (b)(6) earlier statement that “coffee, tea, water and other nonalcoholic beverages would be available to participants during the entirety of the conference” (see Appx. 2).

(b)(6) forwarded the March 23 email to her staff and to the lead Kansas City CFTC staff working on the conference. OFM staff immediately asked about the lunch and all day beverage service, and (b)(6) replied, “I believe lunch was an oversight. I will ask them to amend the opinion so it is covered. The beverage service is fine, as it would be required for the meals. I can fill you in on the discussion, but the beverage service is fine” (see Appx. 5, OFM March 23, 2018, email). OGC was not included in this email exchange (see Appx. 5), but OFM

staff forwarded this email exchange to OGC with a request for an opinion on the all-day beverage service (without including (b)(6)).

OGC researched the issue and learned that the conference package included free water service, so OGC opined that water could be offered. As previously suggested to (b)(6), OGC concluded that offering beverage service other than the free water was inconsistent with the law.

The General Counsel sent an email to (b)(6) stating OGC's research and conclusion, without disclosing the recent request for an opinion from OFM staff (Appx. 6, 2d OGC March 23, 2018, email). The General Counsel's email characterized the situation as clarifying any confusion about beverage service. (b)(6) thanked the General Counsel for this clarification (Appx. 6).

We find that OFM staff felt pressure from (b)(6) to purchase an all-day beverage service for the Ag Conference. They did not trust her assurance that the purchase was permissible, and did not feel comfortable letting her know they were separately going to OGC. We find (b)(6) omitted or misrepresented to staff the advice she received from OGC on March 23, 2018, and impeded the free flow of legal guidance to her employees.

3. Disclosure of private information regarding employee's health status

On March 24, 2017, at the request of (b)(6) sent to (b)(6), a CFTC employee on sick leave, a text message asking whether (b)(6) "condition/diagnosis" could be disclosed. (b)(6) replied on March 27, "I would honestly rather not have it disclosed if at all possible but trust you and (b)(6) to make the right call." On March 28, (b)(6) emailed (b)(6) relaying the pith of the interaction and stating that he did not disclose anything due to Human Resources privacy policies.

(b)(6) felt pressured by (b)(6) to disclose (b)(6) condition and diagnosis to OFM staff notwithstanding the fact that (b)(6) wrote she "would honestly rather not have it disclosed if at all possible." On his own initiative, (b)(6) discussed the matter with Human Resources staff member Jennifer Pullo, including showing Ms. Pullo the text message from (b)(6). (b)(6) recollection is that Ms. Pullo told him not to disclose, that he did not disclose, and that he conveyed OHR's advice to (b)(6). (b)(6) disclosed (b)(6) condition and diagnosis to (b)(6) and (b)(6), but apparently not more broadly to OFM personnel.

Although (b)(6) granted (b)(6) discretion regarding whether to disclose, we find (b)(6) both pressured her employee to make a disclosure where cause to question its propriety and legality existed, and exercised poor judgment in choosing to make the disclosure due to both the totality of (b)(6) message (“I would honestly rather not have it disclosed if at all possible”) and in light of OHR’s advice not to disclose relayed to her by her staff.

4. Improper travel requests and time recordation

The Complaint further alleges (b)(6) improperly requested travel, and improperly recorded time, for subordinates. These subordinates recognize that (b)(6) intention was to help her subordinates, but they also recognized the impropriety of the actions and voiced their objections to her.

a) Travel Request

In August 2016, (b)(6) had a vacation planned for his family in New York. An important meeting between the CFTC and the employees’ union got scheduled for the last day of the already-planned vacation. (b)(6), the budget office’s point person on the union negotiations, agreed to participate in the meeting via video conference from the CFTC’s New York Regional Office. The all-day meeting, however, would necessitate spending an extra night in New York.

While (b)(6) confirmed that his wife was amenable to an extra day and night in New York, (b)(6) submitted, without (b)(6) knowledge, a travel voucher for two nights, including a large room capable of accommodating (b)(6) family. When (b)(6) discovered the voucher, he conferred with (b)(6) on its propriety. With (b)(6) advice, (b)(6) objected to (b)(6) that only one night was reasonable. (b)(6) persisted in offering two nights, with meals/expenses/incidentals stipends, which made (b)(6) uncomfortable, and (b)(6) insisted on only requesting and receiving one night of accommodation within the per diem limit.

b) Time Recordation

In August 2017, one of (b)(6) subordinates was scheduled (b)(6) and intended to telework during (b)(6). He discussed filling out required telework forms with (b)(6) in advance of (b)(6) and she responded by saying they could “keep it informal,” i.e., that the subordinate could just record his time as regular work, rather than as telework.

The impending (b)(6) and intention to telework was made known to HR personnel, who asked for telework forms close to the employee's last day before (b)(6). The subordinate filled out telework forms, had them signed by Executive Director Tony Thompson (due to (b)(6) (b)(6) absence at the time) and timely sent the forms to HR and to (b)(6). This caused the employee some last-minute stress. After being made aware of the forms, (b)(6) replied by email saying, "I have you covered and this additional paperwork was NOT necessary" (Appx. 7, (b)(6) August 29, 2017, email).

With regard to these allegations, we find that no potential violations occurred due to the resistance of her employees; however, we find (b)(6) exercised poor judgment, albeit with good intentions toward her subordinates, but not with the judicious conservation of taxpayer funds and conscientious observance of time and travel policies and regulations.

5. Unprofessional behavior toward subordinates

The Complaint additionally alleges other conduct and behavior the complainants consider to be unprofessional: yelling at subordinates, performing yoga positions on the floor of a subordinate's office, "shushing" subordinates in meetings, directing subordinates not to volunteer information to the Executive Director beyond what he requests, and badmouthing Office of General Counsel personnel in front of her subordinates. Interviews with OFM employees backed up the allegations. (b)(6) has apologized to employees when made aware of their impression that she raised her voice.

While no staff indicated the conduct rises to the level of a hostile work environment, (b)(6) subordinates often feel uncomfortable in her presence because of such conduct.¹²

Conclusion and Recommendation

There is significant evidence that (b)(6) has taken actions, given instructions, and/or made decisions that were, or would have been, if carried out by her subordinates, improper, unethical, or illegal. By creating an atmosphere of distrust, (b)(6) has lost the confidence of her subordinates, (b)(6) and others who feel pressured by her to perform unethical, if not illegal, acts themselves. We are especially concerned that her staff, on multiple occasions, have sought advice from OGC or OHR when they have not trusted her instruction, and have not felt comfortable including her in their inquiries. Finally, we are concerned that this behavior continued (during planning for the Ag

¹² We understand that (b)(6) has been receiving executive coaching.

Conference) after our first interviews with her, in which we clearly presented her with other allegations in the complaint. We discern no improvement in her conduct after being put on notice of complaints that she had pressured OFM staff to perform acts they believed to be improper. Instead, she pressured staff to purchase all-day beverage service for the 2018 Ag conference despite receiving indication from her staff and OGC that it may not be legal.

(b)(6) cooperated during her two interviews with OIG staff, and generally remembered the events in question (but understandably demonstrated some difficulty recalling details due to the passage of time). During interviews with OIG staff, (b)(6) stated on several occasions that she “kicks the tires,” which we believe means that she seeks in good faith to obtain an interpretation of applicable statutes, regulations, and policies, to permit her to meet the agency’s spending needs without running afoul of the law. But staff do not see it as merely “kicking the tires,” do not feel comfortable executing her instructions, and feel they cannot trust her assurances.

(b)(6)

(b)(6)

(b)(6)

(b)(6) She has created an atmosphere of distrust in OFM to the point that staff feel compelled to address issues with agency management without her knowledge. Her continued service (b)(6) is, in our view, untenable. We recommend removing (b)(6) from (b)(6) position.

Appendix 1

**CO-SPONSORSHIP AGREEMENT BETWEEN
THE U.S. COMMODITY FUTURES TRADING COMMISSION
AND KANSAS STATE UNIVERSITY'S CENTER FOR RISK MANAGEMENT
EDUCATION & RESEARCH**

The U.S. Commodity Futures Trading Commission (CFTC) and Kansas State University on behalf of its Center for Risk Management Education & Research (KSU), (collectively, the Parties) agree to co-sponsor an agricultural commodity futures conference (Conference) from April 5-6, 2018 at the Sheraton Overland Park Hotel in Overland Park, Kansas.

The Parties expressly agree and acknowledge that they are independent entities and the agents, representatives, or employees of one party shall not be considered agents, representatives, or employees of the other party. In no event shall this Agreement be construed as establishing a partnership or joint venture or similar relationship between the parties hereto.

I. GENERAL

CFTC

The CFTC is a federal agency charged with the oversight and regulation of the U.S. derivatives markets, which include commodity futures, options, and swaps. The CFTC's mission is to foster open, transparent, competitive, and financially sound markets. Consistent with this mission, the CFTC aims to protect market users and their funds, consumers, and the public from fraud, manipulation, and abusive practices related to derivatives and other products that are subject to the Commodity Exchange Act (CEA).

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) directed the CFTC to design and implement education initiatives to help customers protect themselves against fraud or other violations of the CEA at its implementing regulations. 7 U.S.C. § 26(g)(2)(B). The Commission has sought to advance these education initiatives, among other things, through public-private partnerships that assist in the development and distribution of educational and other content materials regarding commodity futures and options trading for dissemination and use among producers, market users, and the general public. To help pay for these education initiatives, the Dodd-Frank Act established the Customer Protection Fund (CPF). 7 U.S.C. § 26(g)(1).

The CFTC continues its commitment to educating the public with the official launch of the National Agricultural Education Program (NAEP) in spring 2018. The NAEP intends to specifically target agriculture market participants to further facilitate producer's use of the commodity futures and options markets and learn how to protect themselves against fraud or other violations of the CEA or the rules and regulations promulgated thereunder. The Conference is the first in a series of the NAEP's planned agricultural-education initiatives.

KSU

KSU is a comprehensive, research, land-grant institution serving students and the people of Kansas, the nation, and the world. KSU's mission is to foster excellent teaching, research, and service that develop a highly skilled and educated citizenry necessary to advancing the well-being of Kansas, the nation, and the international community. The university embraces diversity, encourages engagement and is committed to the discovery of knowledge, the education of undergraduate and graduate students, and improvement in the quality of life and standard of living of those it serves. In addition, its land-grant mandate, based on federal and state legislation, establishes a focus to its instructional, research, and extension activities.

The Center for Risk Management Education & Research (Center) at KSU seeks to enhance the understanding of economic risks inherent in a global society through world-class experiential education and research. By providing students and business professionals with the information and tools necessary to identify, quantify, and manage risk, the Center complements KSU's mission. The Center's work also positions students and business professionals to better utilize agricultural futures and other financial markets and protect themselves from fraud and other harm in these markets. Additionally, the Center eagerly, aggressively, and earnestly supports KSU's greater mission of advancing the well-being of Kansas, the nation, and the international community.

II. PURPOSE

The Conference is a dynamic model for public-private partnership information sharing forums, specifically designed for agricultural producers and other users of agricultural futures markets, policy makers, regulators, industry associations, faculty and students, and subject-matter experts involved with risk-management education for derivatives market participants. The Conference will provide an opportunity for the CFTC and KSU to provide a platform to build synergies and deliver high caliber presentations, academic research, and discussions on the impact of today's challenges to risk management within the derivatives markets, with a focus on protecting the users of those markets from fraud, abuse, and other violations of the CEA and CFTC regulations. Anticipated topics will include the impact of global markets and the geopolitical outlook on agricultural futures, manipulation, the microstructure of futures markets (including high frequency trading and spoofing), and the interplay between futures markets on related cash markets (including lack of convergence). The Conference will bring together an array of subject-matter experts, respected practitioners, and high profile speakers covering topics of interest and developing trends.

III. ROLES AND RESPONSIBILITIES

To further the co-sponsorship of the Conference, the responsibilities of the Parties are as follows:

Joint Conference Responsibilities

- Set agenda
- Select speakers and other panelists
- Inform speakers and other panelists that the Conference is a "customer education initiative[] designed to help customers protect themselves against fraud or other violations of [the CEA or CFTC regulations]," per 7 U.S.C. § 26(g)(2)(B))
- Select venue
- Develop and approve joint marketing materials (including signage at the Conference)
- Develop and approve educational materials to be provided to Conference attendees
- Develop and approve content for the Conference website

CFTC Conference Responsibilities

- Costs for venue rental, A/V, and security for the Conference
- Select menu (food and beverages)
- Costs for food and beverages provided at the Conference
- Secure government speakers and panelists for the Conference
- Costs associated with preparation and distribution of educational materials to be provided to Conference attendees
- Issuance of CFTC press releases about the event
- CFTC-website content and social media activity related to the Conference

KSU Conference Responsibilities

- Manage registration and collect registration fees
- Host and maintain Conference website
- Manage check-in and hospitality at the Conference
- Costs associated with lead panelists' travel
- Costs associated with research and scholarly papers prepared by lead panelists
- Collect scholarly papers and work with authors regarding same
- Take the lead on a publication of scholarly papers
- Costs associated with preparation and distribution of Conference marketing materials
- KSU-website content and social media activity related to the Conference

Each Party shall be solely responsible for the activities identified above within its area of responsibility, and each Party shall be solely responsible for any liability arising from its own conduct. No Party shall be liable to any other Party for costs or cost overruns outside of its respective areas of responsibility, and there is no expectation of payment from either Party to either Party for any costs related to the responsibilities set forth in this Agreement. The Parties

have determined that the project costs are equitably apportioned because each Party is contributing an equivalent level of effort using in-kind resources and/or direct costs to support the Conference.

IV. REGISTRATION FEES

KSU may charge and collect reasonable registration fees to cover its own costs in funding the Conference, including the costs of lead panelists' research and scholarly papers, as well as their travel and related expenses. No fees charged and collected by KSU shall be used to fund any of the CFTC's responsibilities under this Agreement. Unless otherwise agreed to by the Parties, all attendees—except CFTC staff, KSU faculty, and invited speakers—will be charged registration fees, structured as follows:

General Registration—\$200
Students—\$20

V. FUNDRAISING BY KSU CONFERENCE SUPPORTERS

The CFTC is prohibited from engaging in or encouraging any private fundraising. KSU will make clear, in any solicitation for funds to cover its share of the Conference costs that KSU, not CFTC, is asking for the funds. KSU will not imply that the CFTC endorses any fundraising activities in connection with the Conference. KSU will make clear to its supporters that any gift will go solely toward KSU defraying its own expenses in co-sponsoring the Conference. Any acknowledgments of KSU's supporters will not be reflected in any formal Conference materials or on the Conference website, but may be reflected in separate materials made available at the Conference by KSU. Any materials acknowledging KSU's supporters in connection with the Conference shall be reviewed and approved by the CFTC prior to dissemination.

VI. NO ENDORSEMENT/USE OF CFTC AND SMARTCHECK NAMES AND LOGOS

KSU may not use or reference the CFTC's name or logo or the SmartCheck name or logo in any context, manner, or media now or hereafter known to serve as an endorsement of KSU, or its employees, agents, parents, subsidiaries, and related entities; its contractors; its vendors; or its supporters or donors (collectively, "affiliates"), or any of its programs and products. Further, KSU and its affiliates may not use or authorize the use of the CFTC's name or logo or the SmartCheck name or logo in connection with any merchandising or other commercial activity. However, KSU and its affiliates may use the CFTC's name or SmartCheck in factual publicity for the Conference (e.g., dates, times, locations, and purposes). KSU and its affiliates shall clear all publicity materials for the Conference with the CFTC prior to public dissemination.

VII. NO ENDORSEMENT/USE OF KSU NAMES AND LOGOS

CFTC may not use or reference KSU's name or logo in any context, manner, or media now or hereafter known to serve as an endorsement of the CFTC (including its employees, agents, contractors, or vendors) or any of its programs and products. Further, the CFTC may not use or authorize the use of KSU's name or logo in connection with any merchandising or other commercial activity. However, the CFTC may use KSU's name in factual publicity for the Conference (e.g., dates, times, locations, and purposes). The CFTC shall clear all publicity materials for the Conference with the KSU prior to public dissemination.

VIII. USE OF KSU TRADEMARK

KSU grants the CFTC a royalty-free non-exclusive, revocable license to use its trademark, including its name and logo in connection with the Conference. The CFTC shall request and obtain advance written consent from the KSU in each instance, until the termination of this Agreement.

IX. MODIFICATION/AMENDMENT AND TERMINATION

This Agreement may only be modified or amended upon written request of a Party and with the written concurrence of the Parties. This Agreement is the complete co-sponsorship agreement between the Parties and supersedes all prior understandings and/or communications, both oral and written, with respect to the co-sponsorship. This Agreement will become effective on the date of the last signature herein and will remain in effect until rescinded, unless a Party terminates this Agreement at an earlier time upon written notice to the other Party.

X. OTHER PROVISIONS

- A. Nothing in this Agreement requires any Party to take any action that is contrary to applicable federal or state law or regulation.
- B. No signatory to this Agreement shall be authorized to bind any other signatory to this Agreement without that signatory's specific prior written consent.
- C. This Agreement is not intended to, and does not create any right, benefit, or responsibility, substantive or procedural, enforceable at law or equity against any signatory, its agencies or instrumentalities, its officers or employees, or any other person.
- D. Nothing in this Agreement will restrict the signatories from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals.

- E. Nothing in this Agreement precludes separate activities being undertaken by each of the signatories separately or together, and such activities will not undermine the intent and purpose of the Agreement.
- F. Except as may expressly be provided in this Agreement, no right, property, license, permission, or interest of any kind in, or to the use of, any trademark, trade name, logo, insignia, or device owned by any signatory is, or is intended to be, given, assigned, or otherwise transferred to any signatory by the execution, performance, or non-performance of this Agreement or any part thereof.
- G. Each signatory to this Agreement represents and warrants that he/she has the full right, power, and authority to execute this Agreement and that no consent of any other person or entity is required for the validity of the grant of rights made hereunder.

XI. POINTS OF CONTACT

The points of contact for coordination, notices, and reviews are:

	CFTC	KSU
Name	(b)(6)	Ted Schroeder
Title		Director of the Center for Risk Management Education & Research
Email		tcs@ksu.edu
Phone		785-532-4488

IN WITNESS WHEREOF, this Agreement shall be effective as of the date of the last signature below.

For the CFTC:

Signature: (b)(6)

Name: (b)(6)

Title: (b)(6)

Date: 12/12/17

For KSU:

Signature: Allen Goodenough

Name: Allen Featherstone
Title: Department Head
Date: 12/8/17

Appendix 2

From: (b)(6)
Sent: Friday, March 09, 2018 7:02 PM
To: Davis, Daniel J
Cc: Ghim, Michelle; Sadler, Scott; McGrady, Jackson; (b)(6)
Subject: Ag Conference Guidance
Importance: High

Dan,

As you know, and at the Chairman's request, we have been coordinating specific details of the upcoming Agricultural Commodity Futures Conference. For the past several months the conference planning team and FM has been acting on your oral advice. Given the number of questions and the fact that so many of the issues are novel, I request you provide formal advice so that we have a record of your guidance for future conferences funded by the Customer protection Fund (CPF). While there are several details that still need to be worked out, things are starting to solidify. I am seeking more formal advice, counsel and concurrence with respect to our approach on several issues.

Conduct of the Conference: As you are also aware, the conference is being cosponsored by CFTC and Kansas State University, and your office coordinated the drafting of the agreement with KSU. KSU is charging a fee for their portion of the conference and CFTC is funding the conference from the CPF. Because this is a cosponsored event, the portion of the conference funded by the CPF must conform with the requirements of the CPF, but the entirety of the conference, specifically those portions that could be attributed to KSU do not. Please provide guidance on the conduct of the conference and use of the CPF to fund the entirety of CFTC's portion of the conference. Please also provide any guidance related to conference materials that CFTC should produce (both those that should be provided to participants and those that should be retained in the office files) to support use of the CPF.

Travel to the conference: our working premise for the funding of travel to the conference has been that the CPF, specifically the OCEO budget can fund travel to and from the conference for: OCEO staff, Commissioners and their staffs, and conference speakers and panelists. Other Division attendees must use their office budgets (funded by the S&E appropriation) to send staff to the conference. The rationale for this approach is that the Commissioners and their related staffs provide oversight of all commission programs, including those customer education initiatives of the DCEO, and as such it is appropriate for the CPF to fund their travel to/from the conference. The rationale behind including panelist travel under the CPF would be similar to invitational travel.

Commissioner Behnam has expressed his desire to use his office travel budget to fund his office's travel to the conference and the Ag Advisory Committee meeting, which he chairs. The Advisory Committee meeting is in the planning process, and Commissioner Behnam is contemplating scheduling it to precede the Agricultural Conference on Thursday morning. I have told John Dunfee that I did not see a way around charging the Commissioner's travel to the fund, but that I would consult with you. John indicated that the day to day direction for the OCEO did not reside with individual Commissioners, but with the Chairman, and therefore it may be appropriate to use the commissioner's office funds to pay his and his staff's travel. He further indicated that the travel issue may dictate whether the commissioner

and his staff attend the conference and it would impact whether the advisory committee meets in KC as contemplated. Time is an issue in this matter, as the advisory committee would need to be noticed in the Federal Register, so I would appreciate it if you would opine on the travel issues as soon as possible.

Food at the Conference: The draft agenda has been published and appears below. In keeping with the requirements contained in the newly revised "food guidance" in the Red Book, we believe that food may be provided at the conference for a light afternoon snack on the 1st day (4/5/18) of the conference given the amount of time between the beginning of the conference and the evening program and the desire to keep program participants engaged in the conference agenda. We also believe that it is appropriate and allowable to serve a modest dinner during the evening program of speakers. On the 2nd day (April 6th), we believe it is allowable to serve a modest breakfast in the morning as well as lunch during the noon-time program. We do not plan on serving any snacks on the 2nd day of the program. We anticipate that coffee, tea, water and other nonalcoholic beverages would be available to participants during the entirety of the conference. CFTC does not anticipate funding any refreshments during the evening Social. Please let us know if you concur with our assessment on the ability to serve food and refreshments at the conference.

Thursday, April 5 12:00 - 1:00 pm	Conference Overview Honorable J. Christopher Giancarlo, Chairman, Commodity Futures Trading Commission
1:10 - 1:50 pm	Welcome Remarks Dr. John F. Omer, Director, Kansas State University Center of Agricultural and Forestry Research, Kansas State University Research and Extension
2:00 - 2:15 pm	Keynote Honorable Pat Roberts, U.S. Senator, Chairman, Chairman of the Senate Agriculture Committee <i>in absentia</i>
2:15 - 3:45 pm	Traditional Exchanges, Liquidity Providers, or Both? The Role of Speculators in the Futures Markets
3:45 - 4:15 pm	Break
4:15 - 5:30 pm	How High Frequency Trading Has Changed the Game
5:30 - 6:30 pm	Social: Cottonwood Ballroom corridor
6:00 - 6:30 pm	Pre-Dinner Discussion Daniel Gorton - The 2010 Flash Crash Cynthia Turner, Chairman, Commodity Futures Trading Commission
6:30 - 7:00 pm	Dinner The Honorable William H. White, Deputy Director, Federal Reserve Dinner Special Guest Speaker <i>in absentia</i>
Friday, April 6 7:15 - 7:45 am	Breakfast and Market Update Andi Ruck, Chief Market Intelligence Officer

Continued on next page of conference agenda	
1:45 - 2:00 pm	Keynote The Honorable John M. McCarthy, U.S. Senator, Illinois
2:00 - 2:45 pm	A Different Animal: Futures Contract Design, Hedging, Effectiveness, and Transparency in Thinly Traded Cash Markets for Cattle and Hogs
2:45 - 3:00 pm	Break
3:00 pm - 4:30 pm	Trilogy for Troubleshooting: Convergence, Manipulation, Structural Imbalance, and Storage Rates
4:30 - 5:15 pm	Lunch The Honorable House Oversight Committee on Commodity Futures and Derivatives
5:15 - 6:45 pm	Division of Market Oversight Presents: Detecting and Avoiding Fraud in the Agricultural Futures
6:45 - 7:00 pm	Concluding Remarks The Honorable Chair, Agriculture Committee Committee on Agriculture, Forestry and Conservation

Other Areas: As issues arise as conference plans are finalized, we may request other written guidance from you. If however you are currently aware, based on your current involvement with conference planning, of any other specific areas for which you believe written guidance should be provided, please feel free to provide that guidance.

Thank you for your assistance in this matter. We look forward to continuing to work collaboratively with you and the conference planning team to ensure that we are in keeping with our legal requirements for appropriately utilizing the CPF.

My staff and I are available to discuss these and any other issues as needed. Thanks. (b)(6)

(b)(6)



Appendix 3

From: Davis, Daniel J
Sent: Friday, March 16, 2018 9:16 AM
To: (b)(6)
Cc: Ghlm, Michelle; Sadler, Scott; McGrady, Jackson; (b)(6)
Subject: RE: Ag Conference Guidance

(b)(6)

Thank you for your March 9, 2018, email in which you requested guidance from OGC regarding the expenditure of the CPF for the Agriculture Conference. We previously provided an answer to the question below regarding travel. The below response covers your first question regarding Conduct at the Conference. We are still working on the final question regarding Food at the Conference and expect to have that to you early next week.

1. In response to your first request regarding Conduct at the Conference, my office has determined that the CFTC's use of the Customer Protection Fund (CPF) for the Agriculture Conference (Conference), which has been specifically designed as a customer education initiative, is an appropriate use of the fund. As you know, 7 U.S.C. § 26(g)(2) authorizes CFTC to use the CPF for "customer education initiatives designed to help customers protect themselves against fraud or other violations of this Act, or the rules and regulations thereunder." 7 U.S.C. § 26(g)(2). The Act does not specifically include conferences as "customer education initiatives"; however, GAO has stated that "every item of expenditure does not need to be specified in an appropriations act." 8-324469 at 4, Nov. 8, 2013 citing 8-321788, Aug. 8, 2011. Further, GAO has stated that "[a]ppropriations are available for expenses that are necessary or incident to achieving the object of the appropriation." *Id.* Accordingly, an expenditure is appropriate if it (1) bears a logical relationship to the appropriation sought to be charged; (2) is not prohibited by law; and (3) is not be provided for by another appropriation. 8-324469 at 5.

In the case of the Conference, I find all three criteria have been met. The Conference was specifically designed to help customers protect themselves against fraud or other violations of the Commodity Exchange Act or its associated rules and regulations. Indeed, CFTC memorialized the Conference through a co-sponsorship agreement with KSU, the purpose of which is to:

provide an opportunity for the CFTC and KSU to provide a platform to build synergies and deliver high caliber presentations, academic research, and discussions on the impact of today's challenges to risk management within the derivatives markets, with a focus on protecting the users of those markets from fraud, abuse, and other violations of the CEA and CFTC regulations. [emphasis added.]

Additionally, under the joint responsibilities of the MOU, it specifically provides that the parties jointly agreed to: "inform speakers and other panelists that the Conference is a 'customer education initiative[] designed to help customers protect themselves against fraud or other violations of [the CEA or CFTC regulations], per 7 U.S.C. § 26(g)(2)(B))." Further, consistent with the focus of the Conference, my office and your office have worked with CFTC staff organizing the conference to ensure that panel descriptions meet the stated goals and purpose of the CPF. Specifically, we have discussed with staff the importance of designing the panels with the goal of educating

customers about fraud and other violations of the CEA and the regulations promulgated thereunder. Accordingly, given the Conference's focus on customer protection, it is appropriate to use the agency's CPF, which was established by Congress under 7 U.S.C. § 26, for this purpose.

As to the conference materials for attendees, there should be at a minimum an agenda and a short substantive description of the panel topics sufficient to support the conclusion that they are geared to support customer protection. In addition to retaining materials produced for the conference, the CFTC should also maintain a more detailed description of the panel topics which clearly explain how each panel furthers the CPF.

We also recommend that other CPF-related expenditures also be appropriately documented, including the reason for each CFTC employee's reason for attending the conference for the purpose of determining whether the CPF or the S&E appropriation should be charged. It is important that the agency be mindful of expenses that do not directly support the customer protection aspect of the Conference and are thus properly chargeable to S&E. For example, as we discussed previously, the costs for CFTC employees who are simply attending the conference and not participating in the conduct of the conference that furthers the CPF should be paid from the S&E account.

Finally, given that the co-sponsors jointly agreed that the conference would focus on customer protection, we would expect KSU's expenditures would support the intent that the Conference be focused on customer protection.

Please let us know if you have any additional questions or would like to discuss.

Daniel J. Davis
General Counsel
U.S. Commodity Futures Trading Commission (CFTC)
100 North Street, NE, Room 3000
Atlanta, Georgia 30303
Office: 404.591.3341 | Fax: 404.591.3341 | E: DDavis@CFTC.gov

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Appendix 4

From: (b)(6)
Sent: Friday, March 23, 2018 12:52 PM
To: (b)(6)
Cc: (b)(6)
Subject: FW: Food at the Ag Conference

(b)(6) You can proceed with the food order, to the exception of the afternoon snack, which as we expected we cannot support. Let me know if you have questions, etc. Thanks. (b)(6)

From: Davis, Daniel J
Sent: Friday, March 23, 2018 12:47 PM
To: (b)(6)
Cc: (b)(6); McGrady, Jackson; Ghim, Michelle; Sadler, Scott
Subject: Food at the Ag Conference

(b)(6)

We have reviewed your request for an exception to the serving of food at the Ag Conference. As you know, food is generally considered a personal expense and appropriated funds are not available for the purchase of food. The CFE has a narrow, limited, narrow exception when serving food at a formal conference to certain international organizations. See *National Institutes of Health Food at Government Sponsored Conferences*, 65 Fed. Reg. 17,000 (March 3, 2000) (NHI Decision). The Ag Conference is a formal conference. If the serving of the food is necessary, food is allowed at a formal conference when the following criteria are met: (1) are the meals and refreshments incidental to the formal conference; (2) is attendance at the meals and when refreshments are served important for the host agency, then are attendees full participation in essential discussion, lectures, or speeches concerning the purpose of the formal conference; and (3) are the meals and refreshments part of a formal conference that includes substantial functions occurring separately from when the food is served. After reviewing the agenda and structure of the conference, we believe the evening meal on the first day and the breakfast on the second day of the conference meet all three of the above criteria. It is therefore permissible to use appropriated funds, i.e. the CFE, for this purpose. However, one of the reasons that the proposal to serve an afternoon snack does not meet the second criteria above is that the hotel has several available options for snacks and therefore, appropriated funds are not available for this purpose. As you have noted below, there is a vending machine and a coffee or tea serving food available in the hotel. Additionally, on the hotel's website, there is mention of a lounge which offers snacks throughout the day. While we appreciate the potential concern about the limits of these resources to service conference attendees, they are available and, in OGC's view, do not justify the use of appropriated funds for snacks under the narrow, limited exception enunciated in the NHI Decision.

Best,

Dan

Daniel J. Davis
General Counsel

Appendix 5

From: (b)(6)
Sent: Friday, March 23, 2018 5:10 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Food at the Ag Conference

yes. There will be no snacks or additional soft drinks. Just the coffee and tea and water service.

From: (b)(6)
Sent: Friday, March 23, 2018 4:53 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Food at the Ag Conference

So are soft drinks out for the afternoon break as well?

From: (b)(6)
Sent: Friday, March 23, 2018 12:11 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Food at the Ag Conference

I believe lunch was an oversight. I will ask them to amend the opinion so it is covered. The beverage service is fine as it would be required for the meals. I can fill you in on the discussion but the beverage service is fine. Thanks. (b)(6)

From: (b)(6)
Sent: Friday, March 23, 2018 1:06 PM
To: (b)(6)
Cc: (b)(6)
Subject: RE: Food at the Ag Conference

(b)(6) do have two questions.

1. We had also requested a quotation from the hotel for lunch on 4/6 (Friday). I do not see that this was mentioned or approved by Mr. Davis (only breakfast the second day). He specifically states that only the dinner on 4/5 and the breakfast on 4/6 is approved.

Please advise if that was an oversight or if lunch on 4/6 is specifically excluded in the opinion of OGC. I can reach out to OGC and CC you if prefer, please let me know. Per the agenda lunch on 4/6 is listed as:

11:45 - 12:45 p.m.

Lunch

The Honorable Brian Quintenz, Commissioner
Commodity Futures Trading Commission

2. Similarly, as part of our quotation, we requested a beverage service throughout the conference of Coffee/tea. I do not see that this is addressed by Mr. Davis. Because he specifically determined that the dinner on 4/5 and breakfast on 4/6 were legally sufficient, I believe we also need his review of this specific point.

I am waiting on a revised quote based on a new headcount number provided by (b)(6) and will remove what is necessary based on this clarification.

Thank you,

(b)(6)

From: (b)(6)
Sent: Friday, March 23, 2018 12:52 PM
To: (b)(6)
Cc: (b)(6)
Subject: FW: Food at the Ag Conference

(b)(6) You can proceed with the food order with the exception of the afternoon snack, which as we expected we cannot support. Let me know if you have questions, etc. Thanks. (b)(6)

From: Davis, Daniel J
Sent: Friday, March 23, 2018 12:47 PM
To: (b)(6)
Cc: (b)(6); McGrady, Jackson; Ghim, Michelle; Sadler, Scott

Subject: Food at the Ag Conference

(b)(6)

We have reviewed your request for an opinion concerning the serving of food at the Ag Conference. As you know, food is generally considered a personal expense and appropriated funds are not available for the purchase of food. However, GAO has found a limited, narrow exception when serving food at a formal conference if certain criteria are met. See *National Institutes of Health - Food at Government-Sponsored Conferences*, B-300826, (March 3, 2005) (NIH Decision). The Ag Conference is a formal conference within the meaning of the NIH decision. Food is allowed at a formal conference when the following criteria are met: (1) are the meals and refreshments incidental to the formal conference, (2) is attendance at the meals and when refreshments are served important for the host agency to ensure attendees' full participation in essential discussion, lectures, or speeches concerning the purpose of the formal conference, and (3) are the meals and refreshments part of a formal conference that includes substantial functions occurring separately from when the food is served. After reviewing the agenda and structure of the conference, we believe the evening meal on the first day and the breakfast on the second day of the conference meet all three of the above criteria. It is, therefore, permissible to use appropriated funds, i.e., the CFT, for this purpose. However, we are of the opinion that the proposal to serve an afternoon snack does not meet the second criteria above given that the hotel has several available options for snacks and therefore, appropriated funds are not available for this purpose. As you have noted below, there is a vending machine and a coffee shop serving food available in the hotel. Additionally, on the hotel's website, there is mention of a lounge which offers snacks throughout the day. While we appreciate the potential concern about the limits of these resources to service conference attendees, they are available and, in OIG's view, do not justify the use of appropriated funds for snacks under the narrow, limited exception enunciated in the NIH Decision.

Best,

Dan

Daniel J. Davis
General Counsel
U.S. Commodity Futures Trading Commission (CFTC)
400 Third Street, NE | Washington, DC 20002
Tel: (202) 418-6100 | Fax: (202) 418-6101 | E: DDavis@CFTC.gov

Appendix 6

From: (b)(6)
Sent: Monday, March 26, 2018 9:31 AM
To: Davis, Daniel J
Cc: (b)(6)
(b)(6) Sadler, Scott; McGrady, Jackson; Ghim, Michelle
Subject: RE: Food at the Ag Conference

Thanks for clarifying, Dan.

From: Davis, Daniel J
Sent: Monday, March 26, 2018 9:04 AM
To: (b)(6)
Cc: (b)(6) Sadler, Scott;
McGrady, Jackson; Ghim, Michelle
Subject: RE: Food at the Ag Conference

(b)(6)

Based upon this email below and other information I have received, I feel I need to clarify OGC's position with respect to all-day beverage service at the Ag Conference. Based upon our review of appropriations law, OGC's view is the following:

- An all-day beverage service during the entire conference as a general matter is not consistent with appropriations law.
 - o An all-day beverage service might be acceptable if it is offered as part of a comprehensive package at no additional cost and which cannot be separated from renting the conference center. It is my understanding that the hotel has not offered that option to us. So, unless there are different facts of which I am not aware, this exception is not available.
- Full beverage service may be offered only at the meals.
- Only water service may be offered between meals.
 - o It is my understanding that the hotel provides water service free of charge to all guests at conferences as a matter of course. Given that this is the hotel's practice, we do not see an issue with the hotel offering a similar water service during the course of the conference.

If my understanding of any of these facts is incorrect, please let me know as soon as possible.

As I have previously stated, the agency may pay for the lunch.

Dan

Appendix 7

From: (b)(6)
To:
Subject: RE: Work Note
Date: Tuesday, August 29, 2017 2:04:59 PM

Thank you. I miss everyone too (for real – LOL)

Also, I think I misspoke last week about (b)(6) mentioning this to Jenn. Actually, I think it was Jenn who mentioned to (b)(6) that she hadn't seen any forms from me yet for my upcoming absence. That's what prompted (b)(6) to relay the message to me the morning of my last day in the office.

From: (b)(6)
Sent: Tuesday, August 29, 2017 1:42 PM
To: (b)(6)
Subject: RE: Work Note

(b)(6) Thanks for following up. My only point is that I have you covered, without drama, and you didn't need to have worried about this on your last day. As I told you earlier, I really didn't care how you charged your time – telework or work time. I trusted that you would report your hours, and I just wanted you to take care of your health.

Whether HR had your telework agreement on file or not, I signed one earlier and I would have had you covered.

I didn't think (b)(6) acted with malice. She's way too nice a person to do that!

Thanks and we miss you! (b)(6)

From: (b)(6)
Sent: Tuesday, August 29, 2017 9:21 AM
To: (b)(6)
Subject: RE: Work Note

Hello (b)(6)

I don't think (b)(6) acted with malice. (b)(6)

(b)(6) So, I don't have any issues with (b)(6) mentioning to Jenn that I was about to go out. As for my telework agreement, HR did not have it on file.

In any event, this all went down on my last day in the office. You weren't in, so I just did what Jenn said. The last thing I wanted was to remotely deal with some conflict over my status while I was recovering. I honestly don't care how my hours are billed as long as I get paid and don't lose leave unnecessarily.

Far now, I'm entering my time as telework. If you want me to change it to just regular time, I will. Like I said above, I don't care...I just don't want any drama.

Thank you,

(b)(6)

(btw – I do like your pun. Lol)

From: (b)(6)
Sent: Monday, August 28, 2017 8:52 PM
To: (b)(6)
Subject: RE: Work Note

(b)(6) I recognize that you got a little nervous when (b)(6) and Jen Pullo discussed your leave. However, I have you covered and this additional paperwork was NOT necessary. You have a telework agreement in place and we previously discussed your leave which I indicated I would approve. I'm not sure why (b)(6) felt it necessary to discuss this with HR, as the interaction was not appropriate. Recall that I just went through this when (b)(6) was out for nearly 5 months (and we did less paperwork than you provided) – this is not that as far as timeframe and can be easily accommodated by your telework agreement and leave. You are covered and you should relax and trust that I (b)(6) pun intended).

Rest up and have a good evening. (b)(6)

From: (b)(6)
Sent: Thursday, August 24, 2017 4:28 PM
To: (b)(6)
Subject: FW: Work Note

Hello (b)(6)

Please see below and attached for your records.

On Monday, (b)(6) told me that she had mentioned to Jenn Pullo that I was about to go out for (b)(6) and would be teleworking. Jenn's response was that I needed to submit the necessary telework forms. After speaking with Jenn, I immediately completed the forms and asked Tony to sign in your absence. I gave Jenn the hardcopies Monday and followed-up today with (b)(6). She told me to just enter my time as telework whenever I login between now and September 8th.

Thank you,

(b)(6)

From: (b)(6)
Sent: Thursday, August 24, 2017 4:21 PM
To: Pulla, Jennifer
Subject: FW: Work Note

Hello Jenn

Please see attached for the telework note from (b)(6). If you need anything else, please let me know.

Thank you,

(b)(6)

From: (b)(6)
Sent: Thursday, August 24, 2017 1:43 PM
To: (b)(6)
Subject: Fwd: Work Note

Sent from AOL Mobile Mail
Get the new AOL app: mail.mobile.aol.com

From: (b)(6)
Date: Wednesday, August 23, 2017
Subject: Work Note
To: (b)(6)
Hi (b)(6)

I have attached your work note to this email. Please let me know if you have any questions.

Have a great afternoon!

Thank you,

(b)(6)