



dpwr

Department:
Public Works and Roads
North West Provincial Government
Republic of South Africa

GIFT AND DONATION POLICY 2020/21

TITLE : GIFT AND DONATION POLICY
DEPARTMENT : PUBLIC WORKS AND ROADS

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GIFTS POLICY

1. PREAMBLE

The Department of Public Works and Roads recognises that in serving the public interest, executing its business and in applying standard norms, employees may not accept or receive gifts as a means of gratitude or cultural diplomacy.

The acceptance of gifts, hospitality and benefits introduces an element of partiality and threatens the objectivity of employees in conducting their official duties. A general misconception exists in the common belief that a gift may be accepted as long as it is declared. The primary challenge for ethics officers is to ensure full adherence to the requirements of the Code in relation to acceptance of gifts by training employees to take responsibility for avoiding situations in which they may be conflicted. Employees may excuse themselves from making decisions during high risk meetings such as recruitment of staff or procurement of goods and services.

The PRECCA (Prevention and Combating of Corrupt Activities Act) defines gratification to include:

- Money
- Donations
- Gifts
- Loans
- Avoidance of a loss
- Status
- Employment
- Payment or waiver of a loan

The Public Service Regulations prohibit employees of the Department from directly or indirectly soliciting or accepting gifts, hospitality or private benefits of any value from any person, natural or juristic, contracted or transacting with the Department. Employees may not solicit or accept any said benefits for performance or non-performance of their official duties.

Further, any person be it natural or juristic, in rendering services to the Department, is also prohibited from offering gifts, hospitality or private benefits to employees, related parties of the Department or other Departments.

2. PURPOSE

The purpose of this policy is to:

- To give direction and directive to all employees of the Department on matters relating to acceptance and granting of gifts, donations and sponsorships to and by the state;
- Provide guidance on the behaviours expected in accordance with the Public Service Commission values;
- Promote transparency and avoid conflict of interest;
- Ensure fairness in the interests of employees and the Department;
- Comply with the requirements of the law relating to the prohibition of corruption;
- To ensure proper disclosure of all gifts, donations and sponsorships granted and accepted by the department.

The improper acceptance of gifts and hospitality can lead to accusations of bias and even corruption, potentially leading to investigations and possible corrective action and charges.

It is not feasible that a comprehensive set of rules be drawn up to cover every situation. The situation context must be borne in mind, specifically the relationship between the DPWR, the organisation concerned and the role of the individual in that relationship. However, improper acceptance of a gift or hospitality will be viewed in a serious light and may apart from any other consequences, lead to internal disciplinary action.

By ensuring the above is implemented, the Department will be able to:

- Allow employees, where appropriate, to accept and receive gifts provided that these gifts do not interfere with or have the potential to interfere with their responsibilities to the department, improperly influence the judgments expected of them when acting on behalf of the Department, or amount to corruption in anyway.
- Protect employees from misplaced charges of conflict of interest or corruption by providing a mechanism for the acceptance and of gifts by employees.

There are a number of acts, regulations, policies and procedures that influence and enable the process of giving and receiving gifts and as such this policy must be read with the following principles and policies:

- Code of conduct for the Public Service
- The Disciplinary Code and Procedure
- The Public Finance Management Act 1 of 1999 (as amended)
- Prevention and Combating of Corrupt Activities Act 12 of 2004
- Procurement policy and procedures
- Fraud prevention strategy
- Treasury Regulations promulgated in terms of section 78 of the PFMA 1 of 1999

3. DEFINITIONS

“Benefit” shall mean any tangible or intangible advantages or profits gained, such as tickets to sporting or other events, invitations to lunches, dinners, promotions or travel, etc.

“HOD” shall mean the Head of Department/Accounting officer.

“Corruption” shall mean the abuse of a position of employment by offering or acceptance of a benefit that is not legally due, for the commission of an act in connection with that position of employment, as defined in the *Prevention and Combating of Corruption Activities Act, No 12 of 2004*.

“Customers or clients” shall mean existing and potential future customers or clients external to the DPWR.

“DPWR” shall mean the Department of Public Works and Roads

“PSC” shall mean Public Service Commission

“Employer” means a person who:-

- a) Employs or provides work for any other person and undertakes to remunerate such person;
- b) Permits any person to assist in the carrying out of the department’s mandate.

“Employee” means a person who:-

- a) Has been appointed permanently, notwithstanding that such appointment may be on probation, to a post contemplated in section 8 (1) (a) of the Public

Service Act, and includes a person contemplated in section 8 (1) (b) or 8 (3) (c) of that act; or

- b) Has been appointed on contract in terms of section 8 (1) (c) (ii) of the Public Service Act.

“Gift” shall mean receipts of loans; payments; information or money; services; personal travel; entertainment; gifts or favours from customers or suppliers, or from a person doing or seeking to do business with the DPWR; any discount; hospitality; tangible or intangible item having monetary value, including but not limited to, cash, food and drink and honoraria for speaking engagements related to or attributable to the DPWR and employment or the official position of an employee.

“Gratification” shall mean gratification as defined in section 1 of the *Prevention and Combating of Corrupt Activities Act No 12 of 2004* (as amended).

“Suppliers” shall mean existing and potential vendors, contactors, sourcing partners, service providers, distributors, and consultants who supply goods or services to the Department, as well as any other third parties who may in future become suppliers or vendors of goods or services to the Department.

4. SCOPE OF APPLICATION

This policy applies to all employees of the Department, including interns and learners. This policy regulates processes and procedures in accordance with existing legal duties and obligations that an employee owes an employer in terms of the law, and should therefore not be construed or applied in a manner contrary to such duties and obligations, nor is it designed to replace such duties and obligations.

5. AUTHORITY & APPROACH

- 5.1 The HoD will ensure that the requirements of the *Gifts Policy* are met.
- 5.2 If circumstances warrant it, the HoD may authorise any amendment in the procedures to be followed in a particular case.

6. CORE POLICY PRINCIPLES

- 6.1 Any acceptance of an offer of a bribe or a commission must however be viewed as illegal and may result in criminal action.
- 6.2 Employees must take great care not to be placed in a situation where their actions might be construed to be improper, may indicate bias towards an organisation or person, or indicate favouritism towards any organisation or person.
- 6.3 The basis for remuneration of employees is their pay and any allowances to which they might be entitled. This must not be supplemented by the acceptance of gifts or hospitality for the work that they perform.
- 6.4 Under no circumstances should an employee attempt to solicit a gift from a contractor, supplier, consultant or a person to whom services are rendered by the DPWR.

7. PROHIBITION ON THE ACCEPTANCE AND RECEIPT OF GIFTS

DPWR employees are required to use their best judgement to avoid situations of real or perceived conflict. DPWR employees shall not accept, solicit or give gifts, hospitality or any other benefits that may have an influence on their objectivity in carrying out their official duties or that may place them under obligation to the donor.

7.1 General prohibition

- 7.1.1 In accordance with an employee's obligation to act in the best interest of his/her employer, all employees are prohibited from soliciting, accepting or receiving, or from agreeing to solicit, accept or receive, any gifts directly or indirectly.
- 7.1.2 An employee's family is prohibited from soliciting, accepting or receiving any gifts directly or indirectly on behalf of the employee, where such gifts are obtained from suppliers, clients or third parties, and where the employee has a professional relationship with those suppliers, clients or third parties on behalf of the DPWR.
- 7.1.3 In the event of uncertainty as to whether a disclosure should be made in terms of this policy, it is the duty of an employee to seek advice and to make a disclosure as per the appropriate procedures describe below.

7.2 Specifically prohibited gifts

- 7.2.1 All travel at the expense of suppliers, vendors, clients or third parties by employees or employee's family is specifically prohibited.
- 7.2.2 The acceptance or receipt of cash (bank notes or equivalent) is specifically prohibited.

8. NON-COMPLIANCE AND SANCTION

- 8.1 It is the responsibility of Management to ensure that employees know the policy on gifts and gratuities and that it is properly enforced. Employees who have questions regarding this policy or who are uncertain as to whether a conflict of interest exists should confer with their managers or senior managers.
- 8.2 In the event where an employee needs to advise or seek permission from the HoD, such request or information will be in writing and will be forwarded to the HoD.
- 8.3 Non-compliance with this policy and the procedures described in it may be considered to be gross misconduct and employees may be subject to disciplinary action that could lead to dismissal.
- 8.4 All suspected incidents of corruption and contraventions of this policy should be reported to the HoD for investigation in terms of this policy.

9. DISPUTE RESOLUTION

- 9.1 The success of this policy will depend on the consideration and cooperation of all employees. Any conflicts should be brought to the attention of the appropriate supervisor and if necessary, the Director: Human Resources.
- 9.2 The normal disciplinary and grievance policies and procedures of the Department should be followed.

10. POLICY CONTROLS

10.1 Policy Audit

The departments involved in the executing of the policy may report on the policy and specific problems experienced in the implementation of the policy when deemed necessary.

10.2 Policy Amendment

No amendment(s) may be made to any section of this policy without prior approval of the Accounting Officer.

Recommended by the Risk Committee:

Signature:

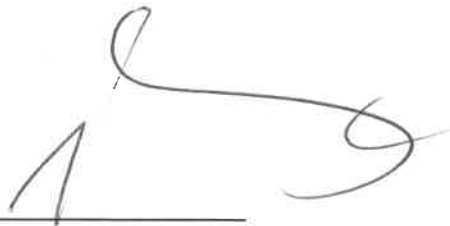


Date:



Approved by the Administrator:

Signature:



Date:

