



KWAZULU-NATAL PROVINCIAL ADMINISTRATION

**PROVINCIAL POLICY FRAMEWORK ON
ACCEPTANCE OF GIFTS, REWARDS, AWARDS,
SPONSORSHIPS, DONATIONS AND HOSPITALITY
BY EMPLOYEES**

This Provincial Policy Framework was approved by the KwaZulu-Natal Provincial Cabinet on 12 May 2010.

Signed:

A handwritten signature in black ink, appearing to be 'A. Govender', written over a horizontal line.

Acting Director-General
Mr A. Govender

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1. INTRODUCTION

- 1.1 The KwaZulu Natal Provincial Administration (hereinafter referred to as the Administration) does not currently have a provincial policy framework whereby the acceptance or non acceptance of gifts, commissions, money, rewards, sponsorships or other benefits can be regulated. As the various departments of the Administration have daily contact with the private sector concerning tenders, contracts and agreements and to ensure consistent and uniform practice in this regard, the Integrated Provincial Human Resource Management Forum deemed it necessary for such a policy framework to be developed.
- 1.2 In terms of paragraph 4.5.3 of the Explanatory Manual on the Code of Conduct for the Public Service, "An employee should not, without prior written approval of the Head of Department, obtain or accept any private, benefits or item of monetary value (a description and the value and source of gift with a value in excess of R350.00) from any person for himself or herself during the performance of duties as these may be construed as bribes".
- 1.3 Departments may adopt the policy framework in its current form. If there are, however, unique circumstances within the Department that necessitate the modification of the policy, departments may customise the policy to suit those prevailing circumstances but must ensure that they remain within the minimum and maximum provisions of the provincial policy and submit such amendments to the Public Sector Co-ordinating Bargaining Council for ratification through the Office of the Premier.

2. PURPOSE

The purpose of this policy is to prevent the improper acceptance of gifts, rewards, awards, sponsorships, donations and hospitality, which can lead to accusations of bias and even corruption and that it may be viewed in a serious light and may lead to investigations and internal disciplinary action.

3. OBJECTIVES

The objectives of this policy document are to indicate the:-

- (a) conditions under which the Administration shall grant permission for the acceptance and disposal of gifts, awards, rewards, donations, sponsorships and hospitality; and
- (b) action to be taken in the event of acceptance and disposal of gifts, awards, rewards, donations, sponsorships and hospitality in contravention of the provisions of this policy.

4. APPLICABILITY

This policy applies to all employees who are employed in terms of the Public Service Act, 1994, as amended and in the Office of the Premier: KwaZulu-Natal and the Provincial Departments.

5. DEFINITION OF TERMS

For the purposes of this policy framework, unless the context indicates otherwise, the following definitions are set out for the terms indicated:

“Accounting Officer” mean the Director-General in the Office of the Premier and Heads of Departments in Provincial Departments.

“Bribery” means to promise, offer, or give something, often illegally, to an employee to receive services, gain influence or confidential information.

“Branch” means an organisational form that is usually headed by a Deputy Director-General or Chief Director and reports directly to the Head of Department (Accounting Officer).

“Commission” means a fee paid to an employee for transacting a piece of business or performing a service.

“CoHoD” means committee of heads of departments.

“Donations” means official resources that flow from the national or international donor community to the KwaZulu-Natal Provincial Administration in the form of grants, technical co-operation and financial co-operation, where the KwaZulu-Natal Provincial Administration is held at least partially responsible or accountable for the management of such resources.

“Gifts” means the receipt of physical presents, awards, rewards, hospitality, donations, money, sponsorships, commissions or any other benefit or gratification that is received by an employee in his or her official capacity. This policy includes all items received by employees that have a residual or resale value, and may include other remuneration.

“Gratification” means gratification as defined in section 1 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004). **Annexure B.**

“Gifts excluded from this policy” means those received from family members or friends in a personal capacity which cannot be linked to an employee’s employment within the KwaZulu-Natal Provincial Administration or his or her official capacity or official involvement with the other party.

“KwaZulu-Natal Provincial Administration” means the Office of the Premier: KwaZulu-Natal and the Provincial Departments as defined in the Public Service Act, 1994, as amended.

“MExCo” means management executive committee.

“Per-diem” means an allowance for daily expenses.

“Public Service Act” herein referred to as the Public Service Act, 1994 as amended.

“Service Provider” means a contractor, consultant or person(s) who renders services to the Administration.

6. AUTHORISATION

The authorisation of this policy framework is in accordance with:-

- (a) Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004)
- (b) Section 17(4) (a) (i) of the Public Service Act, 1994 as amended.
- (c) The Code of Conduct for the Public Service
- (d) Public Sector Co-ordinating Bargaining Council Resolution 2 of 1999 and Resolution 1 of 2003: Disciplinary Code and Procedures for the Public Service

7. POLICY PROVISIONS

7.(1) Principles guiding this policy framework:

- (a) It is commonly accepted that gifts and hospitality form a normal part of business relations. The acceptance of such gifts and hospitality may be permitted under certain conditions, but should never be of such an extent or nature that an employee’s judgment is influenced thereby.

Whenever any form of gift or hospitality is considered, it is important to ensure that a healthy balance between service providers is maintained at all times and that the perception of a special relationship with particular individuals or service providers is not created.

- (b) It should further be noted that a fine distinction exists between normal marketing practices and bribery. In the case of an employee, it is imperative that great caution be exercised at all times in this regard. Employees should always bear in mind that not only their own reputation but that of their department and the Administration is at stake as soon as any attempt at bribery or improper influencing is suspected.
- (c) Where tenders are involved, employees must always be mindful of the fact that service providers might have ulterior motives when offering gifts or other benefits.
- (d) Any acceptance of an offer of a bribe or a commission is deemed to be illegal and may result in criminal action. If a gift or hospitality is offered at any stage, (before, during or after) a tender process, such an offer must be declined.
- (e) 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 a service provider or a person or indicate favouritism towards any service provider or person.
- (f) The acceptance of gifts or hospitality by employees must be the exception and not the rule. If doubt exists about the propriety of the gift or hospitality then it must be refused.
- (g) 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.
- (h) If, an employee is offered a gift or hospitality by a service provider to the Administration, this must be refused.
- (i) Under no circumstances should an employee attempt to solicit a gift from a service provider who renders services to the Administration.

7.(2) Acceptance of gifts, awards and donations by employees

- (a) Employees must as a general rule not accept gifts, where the gift has been given because of the giver's official relationship with the Administration itself. However, for all the circumstances below, if employees accept such gifts, they must immediately be recorded in the Gifts and Hospitality Register of the Department. The following special circumstances apply:
- (i) **Seasonal Gifts and Promotional Items:** Seasonal gifts such as diaries or calendars and inexpensive promotional items may be retained. Gifts of a value over R350.00 must be refused. Gifts with a retail value of less than R350.00 may only be accepted and retained where they can be considered occasional gifts and the acceptance and retention thereof would not give rise to public concern. If an employee is unsure of the appropriateness of accepting a gift, it is important that the employee consults with his/her immediate supervisor, who in turn, may consult, in writing, with the Accounting Officer or his or her delegate.
 - (ii) **Where refusal may offend:** Non-trivial gifts must as a matter of course be refused. However, circumstances may arise where the refusal of a gift from a foreign government or a token of appreciation for a public appearance, may offend. In such circumstances, pending the approval of the direct supervisor, the gifts may be accepted and if possible put on display in the workplace.
 - (iii) **Official Gifts from Donors:** It may sometimes be appropriate to retain gifts for display purposes in the workplace. An example may be in the case of a pending reciprocal visit by a donor.
 - (iv) **Gifts from Colleagues:** Personal gifts from colleagues of other government departments may be accepted as a token of friendship or appreciation. These may be accepted when they are gifts of a purely personal nature and where receipt thereof does not breach the spirit or principles set out in this policy.

- (iv) **Awards or Prizes:** Employees may be considered for an award or a prize, on merit, as a result of endeavors in their field. The employee may accept such an award or prize on condition that it is recorded.

- (v) **Per-diem:** Employees are encouraged to contribute to the academic excellence of their field and may as a result of this, write and publish academic articles in recognized journals. The standard practice is for the organisation/institution responsible for producing the journal to grant a per-diem to the person (employee) whose article is reviewed by peers and subsequently published. The employee may accept such a per-diem on condition that it is recorded.

- (vii) **Other incentives:** Other favours or considerations may be offered by a service provider or an organisation which cannot be clearly defined as either a gift or an offer of hospitality. Special discount or reduced cost to acquire goods or services by a service provider can be utilised provided they are to the benefit of the Office of the Premier: KwaZulu-Natal and the Provincial Departments. Special discounts or reduced costs offered to individual employees must be declined. Similarly, offers of using outlets not available to the general public must be declined.

7.(3) Rewards, commissions or reimbursements for service or transaction:-

No offer that could be construed as a reward, commission, reimbursement or personal favour for a service or transaction which is, or might be performed as part of an employee's duties, or which may in any way benefit the organisation offering the reward, reimbursement or personal favour, may be accepted.

7.(4) Offers of hospitality to employees

It is common practice for service providers, to the Administration, to offer employees one form of hospitality or another. This may range from working

breakfasts, lunches or dinners to invitations to sporting or cultural events. Employees must, when deciding on whether or not to accept such offers, deliberate on the appropriateness or propriety of such offers. The principles set out in paragraph 7. (1) above must be carefully considered when making a decision in this regard. However, if employees accept such gifts, they must be immediately recorded in the Gifts and Hospitality Register of the Department. The following guidelines apply:

- (i) If the Administration and the Provincial Departments are formally invited and an employee is nominated to attend by his/her Manager, the invitation may be accepted. Subsistence and travel expenses emanating from this invitation must be honoured by the Administration.
- (ii) Hospitality that includes overnight accommodation paid for by the service provider or organisation making the offer, should as a general rule not be accepted, unless the offer is part of the process to view equipment at a specific site outside the Province.
- (iii) Invitations to a breakfast, lunch or dinner with a service provider or organisation must only be considered if a formal invitation is received, the purpose is to discuss business and it can be justified that the acceptance thereof is in the interests of the Administration.
- (iv) Acceptance of a purely social invitation, such as a sporting event, may be accepted, except if attendance thereof would interfere with the service delivery of the Administration, or could be misconstrued or would prejudice the interests of the Administration.
- (iv) Repeated invitations from one source should be considered inappropriate and must be politely declined, with an explanation that this Provincial Policy does not allow the acceptance of gifts.

- (v) Invitations and offers such as holidays, as well as the use of vehicles and equipment must be refused and reported to the employee's immediate supervisor who in turn must ensure the refusal is recorded in the Gifts and Hospitality Register.
- (vii) No employee must be seen to be biased towards one service provider or organisation over others.

8. RECORDING OF GIFTS, AWARDS, REWARDS, HOSPITALITY OR OTHER REMUNERATION IN THE GIFTS AND HOSPITALITY REGISTER

- (a) To ensure proper procedure and propriety in the receiving of gifts, awards, rewards, hospitality, donations or other remuneration, it is in the interest of the employee and the Administration that such interaction be recorded, inclusive of gifts refused together with the reasons for refusal. This is especially necessary to counter suspicion of improper conduct, corruption and bias. All offers of the above must be presented to the Manager of the employee's respective Directorates and if approved and accepted, as provided for in this policy, be recorded in the Register. **See Annexure A for Gifts and Hospitality Register.**
- (b) Each Branch shall maintain a "Gifts and Hospitality Register" for recording all offers of gifts and hospitality to and from employees of the department that are under their control. The following information must be recorded:-
 - (i) The source of the hospitality/donor of the gift.
 - (ii) The venue and type of hospitality/description of the gift.
 - (iii) The names of the employees receiving the hospitality/gift.
 - (iv) The names of the persons or service provider giving the hospitality/gift.
 - (v) Whether the hospitality/ gift was accepted or retained.
 - (vi) An estimated valuation of the gift must be provided.
 - (vii) The estimated maintenance cost for a gift received (if applicable) must be recorded.
 - (viii) The date the hospitality/gift was offered, accepted or retained.
- (c) The Gifts and Hospitality Register must be submitted to the Accounting Officer on a quarterly basis for the purposes of proper monitoring and updating on behalf of the entire Department.

9. DISCIPLINARY ACTION

The acceptance of gifts, rewards, awards, sponsorships, donations and hospitality by employees, in contravention of the provisions of this policy, is considered a serious misconduct and must be dealt with in terms of the Disciplinary Code and Procedures for the Public Service and/or prosecuted criminally.

10. ROLES AND RESPONSIBILITIES

The success of this policy framework depends on the consideration and cooperation of all employees. All employees share the responsibility of adhering to and enforcing the policy framework in their respective Departments. The specific roles and responsibilities are as follows:-

10.1 Accounting Officers

- (a) grant permission for the acceptance of gifts intended as a token of appreciation for good relations or co-operation;
- (b) grant permission for the acceptance of travel offered by organisations, institutions, service providers, to attend exhibitions promoting their products/services or for other private purposes provided these are in the interests of the Administration;
- (c) as a rule all accommodation expenses are paid by the Administration. Offers for the payment of such expenses may be accepted in exceptional circumstances during, for instance, Promotions. Requests in this regard will, however, only be considered and granted in respect of events such as mass promotion programmes held at public venues;
- (d) grant permission to accept gifts, hospitality, donations or sponsorships from service providers. No such permission is required for tokens obtained at conferences, conventions or similar events; and
- (e) monitor and update the Gifts and Hospitality Register on a monthly basis.

10.2 Heads of Branches in Provincial Departments

- (a) grant permission to accept invitations to business meals, provided it is done in a circumspect and responsible manner;

- (b) grant permission to accept calendars, diaries, cuff-links, ties or articles for normal official use which display the service provider's name, trade mark or logo which are presented for advertising purposes. The acceptance of any articles on which trademarks and logos do not appear are also subject to approval;
- (c) grant permission to accept invitations to sports meetings during office hours only in highly exceptional cases. Invitations to meetings which take place outside of office hours may be accepted with due consideration being paid to the provisions of balance and circumspection. Employees may, however, under no circumstances initiate requests by approaching service providers in this regard; and
- (d) be the custodian of the Gifts and Hospitality Register for his/her branch.

10.3 Human Resource Components of Provincial Departments must:

- (a) ensure that delegations are assigned and approved for the provisions included in paragraph 7 above;
- (b) ensure that the content of this policy is communicated to all line managers and employees in the department;
- (c) customise departmental policy within the framework of this policy, if necessary; and
- (d) ensure that new areas of review which are of a transversal nature are brought to the attention of the Chief Directorate: Human Resource Management in the Office of the Premier.

10.4 The Office of the Premier: Human Resource Management Chief Directorate must ensure that:

- (a) the policy framework on acceptance of gifts and benefits in the Administration is compiled in line with national legislation;
- (b) the policy is *approved* by the Management Executive Committee (MExCo/CoHoD) and / or the Governance and Administration Cluster;
- (c) the policy is *consulted* at the Provincial Co-ordinating Chamber of the PSCBC and on behalf of the Administration;
- (d) the policy is *reviewed* in line with amended national legislation and includes input from departmental human resource components;

- (e) that provincial departments apply the provisions of this policy consistently; and
- (f) the information recorded in the gifts register of each department is submitted to the Office of the Premier and collated for reporting to the G&A Cluster.

11. FINANCIAL IMPLICATIONS

The Accounting Officer must ensure that the funds are available to implement this policy.

12. MONITORING, EVALUATION AND REVIEW

- (a) Monitoring and evaluation are crucial elements of this policy framework and must be done on an on-going basis. The Directorate: Human Resources Policy and Practices in the Institutional Development and Support Branch in the Office of the Premier must amend and review this policy as and when necessary.
- (b) Departments and Organised Labour are requested to submit any inputs that they may have regarding this policy to assist in the review process.
- (c) Information obtained from departments on gifts received will be monitored for reporting to the G&A Cluster.

13. IMPLEMENTATION DATE

This policy framework comes into effect on 1 June 2010.

15 ANNEXURES

Annexure A: Departmental Gifts and Hospitality Register

Annexure B: Definition of Gratification in terms of the Prevention and Combating of Corrupt Activities Act, 2004

ANNEXURE B

Prevention and Combating of Corrupt Activities Act, 2004, Act No. 12, 2004

(ix) **“gratification”**, includes

- (a) money, whether in cash or otherwise;
- (b) any donation, gift, loan, fee, reward, valuable security, property or interest of any description, whether movable or immovable, or any other similar advantage;
- (c) the avoidance of a loss, liability, penalty, forfeiture, punishment or other disadvantage;
- (d) any office, status, honour, employment, contract of employment or services, any agreement to give employment or render services in any capacity and residential or holiday accommodation;
- (e) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (f) any forbearance to demand any money or money’s worth or valuable thing;
- (g) any other service or favour or advantage of any description, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and includes the exercise or the forbearance from the exercise of any right or any official power or duty;
- (h) any right or privilege;
- (i) any real or pretended aid, vote, consent, influence or abstention from voting; or
- (j) any valuable consideration or benefit of any kind, including any discount, commission, rebate, bonus, deduction or percentage.