

## **GAUTENG PROVINCE**

HUMAN SETTLEMENTS  
REPUBLIC OF SOUTH AFRICA

# **GIFTS & HOSPITALITY DECLARATION POLICY THREE YEAR PERIOD**

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**2016/2017-2018/2019**

## **Definition & terms**

**“Accounting Officer”** means the Head of Department of Gauteng Human Settlements Department.

**“CFO”** means to the Chief Financial Officer of the Gauteng Department of Human Settlements

**“Civility”** means a gift that constitutes of non-alcoholic liquid refreshments and food offered to someone as it is considered to be polite and appropriate (If any form of entertainment is added, it would be labelled “hospitality”).

**“Code of Conduct”** means Chapter 2 of the Public Service Regulations of 2001, as amended, The Code of Conduct for Public Service.

**“Corporate gift”** means gifts bearing the logo of the company often offered at conferences and other official functions and events either organised by the company or at which the company is sponsoring. It also refers to gifts presented by foreign delegations or departments to pay respect. For example: T-shirts, Bags, iPads, cell phones, cars etc.

**“DPSA”** means the Department of Public Service and Administration

**“Department”** means the Gauteng Department of Human Settlements;

**“Donation”** means aid offered for charitable purposes or to benefit a cause.

**“Employee”** means

(a) Any person, excluding independent contractor, who works for the Department and who receives, or is entitled to receive any remuneration; and

(b) Any other person who in any manner assists in carrying on or conducting the business for the employer

**“Ethics Officer”** means an employee of the Department duly appointed to responsible for day-to-day-work related to the ethics management programme in the Department.

**“Executive Authority”** means an executive authority as defined in Section of the Public Service Act, 1994. For purposes of this policy the Executive Authority means the Member of the Executive Council for Cooperative Governance and Traditional Affairs and Human Settlements;

**“Family members”** in relation to any person, means his or her parent, sister, brother, child or spouse—

- (a) including a person living with that person as if they were married to each other, namely a spouse or life partner;
- (b) whether such relationship results from birth, marriage or adoption;
- (c) including any other relative who resides permanently with that person; and
- (d) including any other relative who is of necessity dependent on such person;

**“Gift”** means a token which is bestowed voluntarily to the employee without any expectation of tangible compensation, and for which no direct or indirect contractual obligations are imposed. A gift may be to one’s own benefit, or to that of one’s immediate families and relatives.

**“Gratification”** as defined in the Prevention and Combating of Corrupt Activities Act of 2004 includes-

- “(a) money, whether in cash or otherwise;
- (b) any donation, gift, loan, fee, reward, valuable security, property or interest in property 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

**“Hospitality”** Can be food, drink, entrance to events, accommodation or entertainment provided free of charge or heavily discounted and for which no direct or indirect contractual obligation are implied. For example: Complimentary tickets for soccer, festivals, flights and accommodation etc.;

**“Mementos”** This is a gift that is intended as innocent keep sake and/ or innocent reminder of a business interaction and the attendance of a meeting, event and/or function. A trinket/ornament can also be considered to be a memento, when presented with intent to be an innocent keep sake or reminder of a business interaction of sorts. For example: Calendar, mouse pad etc.

**“Public Service Integrity Management Framework”** means the Public Service Integrity Management Framework 2013.

**“Public Service Regulations 2016”** means the Public Service Integrity Regulations 2016.

**“Private benefits”** includes, but not limited to, favours, donations, grants and sponsorships that directly or indirectly benefit the public servant;

**“Promotional gift”** This refers to advertising material provided to Public Servants, such as caps, pens and diaries during official occasions. These gifts may or may not have any logos displayed on it.

**“Retainership”** means retainership as contemplated in Chapter 3 of the Public Service Regulations of 2001 as amended.

**“Sponsorship”-** Refers to either cash and/or in-kind fee paid on behalf of an employee to attend an event or enrol with any institution for academic or any other purpose.

## 1. Problem Statement

The public service leaders have the obligation to create *“a professional environment that is infused with values of accountability, efficiency, transparency and professionalism”*.

Implementation of declaration of gifts & hospitality has in the past few years been guided and regulated through the **Policy on declaration of Interest, Gifts and Work Outside the Public Service**. This policy presented some gaps after the Public Service Integrity Management Framework was adopted by Cabinet in October 2013. The policy has also been outdated, since it has been effective even beyond the de-merger of the Local Government and Housing Department to Human Settlements Department and Cooperative Governance and Traditional Affairs (COGTA). There is a need to align the policy with the current business function of the Department, to recognise the processes and procedures employed by the department.

Some of the major implementation gaps include:

- 1.1 Limited implementation and adherence to the Code of Conduct. The conduct of some employees have highlighted the lack of compliance with the regulations as the disclosure was viewed as non-compulsory;
- 1.2 Lack of alignment and consistency between the policy and the guidelines;- the guidelines contained certain definitions which were not covered in the policy and consequence management which was missing from the authorised approved policy, thus creating a confusion on which regulative piece has precedence over the other (thus confusing the purpose of the policy and guidelines).

## 2. Introduction

The following provision of the Code of Conduct for the Public Service, Chapter 2, Code of Conduct, Section 13 is applicable to all employees, irrespective of salary level:

*“An employee shall-:*

*(h) not receive or accept any gift from any person in the course and scope of his or her employment, other than from a family member, to the cumulative*

*value of R350 per year, unless prior approval is obtained from the relevant executive authority;*<sup>1</sup>.

The Financial Disclosure Framework allows SMS members to accept gifts and require of them to disclose those gifts to their respective departments.

Acceptance of any gratification, gifts and hospitality with the intention of acting dishonestly or illegally could be amount to a violation of the Prevention and Combating of Corrupt Activities Act of 2004. The gift can have unintended consequences depending on the context it was offered and the intentions of the giver.

### **3. Purpose**

- 3.1. To provide clear policy directive on the acceptance of gifts, hospitality and other sponsorship and retainership for the Gauteng Department of Human Settlements
- 3.2. Assist the department in managing possible conflicts of interest which may arise due to public servants accepting gifts while undertaking their official duties;
- 3.3. To stipulate the procedure to be followed in seeking permission to accept gifts, and declaring gifts below the stipulated amount, R350.00 (three hundred and fifty rands only).

This policy should be read in conjunction with the relevant legislation and regulations (such as Chapter 2 & 3 of the Public Service Regulations of 2001 as amended) that governs the acceptance and giving of gifts and other benefits in the public service.

### **4. Scope of application**

The Gift and Hospitality Declarations Policy is in line with the Public Sector Integrity Management Framework<sub>1</sub>, and it is applicable to the following personnel in the department;

- 4.1 All persons employed by the Department in terms of the Public Service Act, 1994 (Proclamation 103 of 1994), as amended;

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<sup>1</sup> Public Service Regulations 2016, Chapter 2, Code of Conduct

## **5. Legislative & Regulatory Framework**

- 5.1 Public Service Act of 1994 as amended.
- 5.2 Public Service Regulations of 2016 as amended
- 5.3 Public Service Anti-Corruption Strategy.
- 5.4 Public Sector Integrity Management Framework, - as it relates to section 6, subsection 6.1; (6.1.1- 6.1.5) on acceptance of gifts, hospitality and other benefits as well as 6.7. on the coordination and reporting of implementation of the framework; section 7 (7.1.1.) in relation to the code of ethics; subsection 7.1.3 (a-c) on code of conduct for supply chain management practitioner; section 7.2 subsection 7.2.1. (5a,b &6a,b) on disclosure of sponsorships, gifts and hospitality.
- 5.5 Prevention and Combating of Corrupt Activities Act no 12 of 2004;
- 5.6 Prevention of Organised Crime Act 121 of 1998;
- 5.7 Promotion of Access to Information Act no 2 of 2000;
- 5.8 Promotion of Administrative Justice Act no 3 of 2000;
- 5.9 Public Finance Management Act no 1 of 1999 (PFMA); - promotes the effective, efficient and transparent systems of financial and risk management and
- 5.10 Internal control measures of the Department
- 5.11 Treasury Regulations of March 2005, Section 20 *Gifts, donations and sponsorship* issued in terms of the Public Finance Management Act, 1999;
- 5.12 Code of Conduct for the Public Service

## **6. Policy Principles**

Employees are prohibited from directly or indirectly soliciting or accepting gifts, hospitality or private benefits of any value from any person (natural and juristic) that is contracted to the department to which the incumbent is an employee;

- 6.1 All employees are required to declare gifts and hospitality as and when they are offered to the employee;
- 6.2 All employees shall not, without prior written approval of the Executive Authority obtain or accept any private gifts, benefits or item of monetary value (a description and the value and source of gift with a value in excess or R350) from any person for himself or herself during the performance of duties;



- 6.3 All employees are prohibited from accepting cash money (bank note, coins or any form of currency) as a gift regardless whether such gift is below R350 or above R350.
- 6.4 The Executive Authority or any delegated official has the discretion whether the employee keeps the gift or the gift is for the benefit of the Department or any charitable institutions that the Executive Authority identifies or selects;
- 6.5 Any person, when rendering service to department is prohibited from offering gifts, hospitality or private benefits to employees or their immediate families and relatives;
- 6.6 Employees are prohibited from accepting or soliciting any gifts, hospitality and private benefits from any person in return for performing or not performing his or her official duties;
- 6.7 Employees are prohibited to directly or indirectly accept or agree or offer to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person;
- 6.8 An employee shall—  
not receive, solicit or accept any gratification, as defined in section 1 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), from any employee or any person in return for performing or not performing his or her official duties;;
- 6.9 The prohibitions on gifts excludes all tokens that may be offered or accepted within normal standards of courtesy or protocol by any entity. This will include tokens such as conference packages (pens, bags, t-shirts, etc.) and any promotional materials or gifts that are often offered at functions and events; and
- 6.10 In situations where an employee cannot decline a token of appreciation because it might be considered culturally disrespectful, such tokens must be declared and registered in the departmental gift register.

## **7. Key considerations**

The following key considerations need to be assessed prior accepting the gift in order to ascertain the context under which the gift is offered;

- 7.1 The Intention of the giver should be clear, where possible such should be provided for in writing by the giver;

7.2 The context under which the gift is offered should be clearly understood by both the employee and the giver. This is the circumstances in which the token was presented:

- 7.2.1 It should not be in response to any service delivered by the employee,
- 7.2.2 It should not be presented in relation to a transaction made between government and the private sector,
- 7.2.3 It should be presented in a transparent and open manner.

Both the intention and context need to be taken into consideration. Although the intention of a person presenting a token will not always be clear, an employee needs to use his/her good judgement to reflect on the givers' intention for giving the token. The context (or circumstances) may also assist to clarify the intention. Where the intention is not clear, the employee is advised to seek advice from the Ethics Officer, prior to accepting the offered gift or may opt to decline the gift all together.

## **8. Process for declaration**

The following process should be followed when accepting gifts or hospitality within the Department;

- 8.1 Declaration form for acceptance of gifts and hospitality will be made available on the Department's intranet and alternatively they could be obtained from the Ethics Officer.
- 8.2 Upon receipt of the gift or hospitality or any other gift that should be declared in terms of this policy, the employee should depending on the value of the gift or hospitality complete the relevant declaration form and submit it to the Ethics Officer.
- 8.3 The Ethics Officer will process the declaration form to ensure that are require information is provided to enable the Executive Authority to take a decision on the application.
- 8.4 The Ethics Officer will submit the declaration form to the Executive Authority to take a decision on the application.
- 8.5 Once the decision of the Executive Authority has been communicated to the Ethics Officer, the employee concerned will be informed of the decision in writing.

- 8.6 The Ethics Officer shall keep a gift register which will contain all the declared gifts within each financial year and submit to the Accounting Officer and the Executive Authority.
- 8.7 The giver (person who offered the gift) may be expected to provide information, in instances where the Ethics Officer needs to verify whether the gift was offered under suspicious circumstances to exclude and ascertain the extent of colluding where such is suspected.
- 8.8 Tokens, gifts or hospitality, offered in a transparent way to a number of people at the same time such as conference packages, pens, T-shirts, etc. are considered acceptable and do not need to be disclosed.

## **9 Roles and responsibilities**

### **9.1 Employees**

- 9.1.1 All employees are expected to declare all gifts and or hospitality received to the value less than R350 using the prescribed declaration form for acceptance of gifts and/or hospitality.
- 9.1.2 All employees are expected to seek approval from the HOD to accept gifts and hospitality in excess of R350.
- 9.1.3 Where the employee is not certain or clear about the intention of the gift or hospitality, the employee should seek advice from the Ethics Officer.
- 9.1.4 All employees should under no circumstances solicit gifts and hospitality from service providers or members of the public for service rendered by an employee. In case where a service provider or member of the public offers a gift, the employee should declare or seek approval from the Executive Authority depending on the value of the gift.

### **9.2 Ethics Officer**

- 9.2.1 The Ethics Officer shall be responsible for administering the gift declaration policy.
- 9.2.2 The Ethics Officer shall ensure the compliance with the policy.
- 9.2.3 The Ethics Officer shall keep a gift register on all gifts declared for every financial year and report to the Accounting Officer and the Executive Authority from time to time.

9.2.4 The Ethics Officer shall monitor the trends associated with gifts received or offered, and where it is found that gifts are linked with services to be rendered or service already rendered by a service provider or gifts are solicited from service providers or beneficiaries alert the Accounting Officer and initiate an investigation.

## **10 Managers & supervisors**

10.1 Should at all times ensure that the staff within their responsibilities comply with the policy.

10.2 Where they suspect non-compliance to the policy alert the Ethics Officer.

## **11 Accounting officer**

11.1 Authorise all acceptance of gifts declared where application has been declined provide reasons to ensure fairness.

## **12 Non- compliance**

In line with the Public Service Regulations 2016 and the Public Sector Integrity Management Framework, the following disciplinary measures will be implemented should any employee of the department not comply with this policy:

12.1 Effective and appropriate disciplinary steps would be taken against any employee of the department who contravenes or fails to comply with the Gift and Hospitality Declaration policy.

12.2 The employee will be expected to return the gift or the value thereof to the giver, should it be discovered that the employee solicited such gratification.

12.3 The employee will be disciplined in accordance with the public service disciplinary procedure.

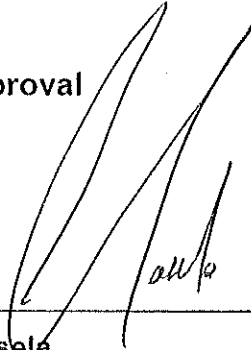
## **13 Policy review**

This policy shall be reviewed in every three years, unless otherwise required by the change in national and provincial legislative framework or change in policy and strategy dealing with integrity management or as instructed by the Executive Authority of the Department.

**14 Date of Effect**

This policy will be effective from the date that the approval is granted by the Accounting Officer of the Department, and replaces any existing policy on **Declaration of Interest, Gifts and Work Outside the Public Service on Gifts.**

**15. Policy approval**



Ms. Matilda Gasela

Head of Department: Department of Human Settlements

Date:

Recommended	<input checked="" type="checkbox"/>	Not recommended	<input type="checkbox"/>
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Mr. SP Mashatile, MPL

MEC: Cooperative Governance and Traditional Affairs & Human Settlements

Date: 13/02/2017

Approved	<input checked="" type="checkbox"/>	Not Approved	<input type="checkbox"/>
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