OFFICE OF THE CHIEF JUSTICE
REPUBLIC OF SOUTH AFRICA

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GRIFFIER VAN DIE HOGGEREGSHOF VAN SUID AFRIKA
GAUTENG AFDELING · JOHANNESBURG
32
2020 -09- 07
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION - JOHANNESBURG

7 September 2020

To:
Legal Practice Council - Gauteng
Gauteng Attorneys Association
Johannesburg Attorneys Association
West Rand Attorneys Association

GIFTS AND DONATIONS
GAUTENG DIVISION, JOHANNESBURG

1. It has come to my attention that certain cost consultants and/or attorneys are in the process of collecting money or other items with an intention to donate same to the Taxing Masters of Gauteng Division, Johannesburg.

2. No employee of the Office of the Chief Justice may directly receive or accept a gift, donation or sponsorship.

3. Acceptance of gifts, donations and sponsorships by an employee directly constitutes gross misconduct that will result in disciplinary action against the employee.

4. Note that the Office of the Chief Justice Gifts, Donations and Sponsorship Policy sets out a procedure (refer paragraph 7.3 of the policy) for acceptance of gifts, donations and sponsorships by the Department. The Policy is attached hereto for ease of access.

5. Cost consultants and attorneys are discouraged from collecting money or items for the benefit of employees unless the procedure set out in the policy has been followed and prior approval for the gift/donation was secured.

Roanne Bramdaw
Chief Registrar

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RM/GDS/3/9/P



OFFICE OF THE CHIEF JUSTICE
REPUBLIC OF SOUTH AFRICA

GIFTS, DONATIONS AND SPONSORSHIP POLICY

VERSION	EFFECTIVE DATE	PARAGRAPHS AFFECTED	REVIEW DATE
1	*01 April 2015*	*Initial document*	*June 2016*
2	*August 2016*	*1.4-1.6* *7.2* *7.3.1& 7.3.2* *7.4.1.-7.4.2* *8.1*	*March 2018*
3	*October 2018*	*5,7.3.2, 7.5*	*Three year or when a need arises*

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1. DECLARATION OF INTENT

1.1. In terms of Public Finance Management Act (PMFA) Section 38 (1) (a) (i), the Accounting Officer (Secretary-General) is responsible to ensure that the department (Office of the Chief Justice) has and maintains effective, efficient and transparent systems of financial management and internal control.

1.2. There is a need for a policy on the management and reporting on Gifts, Donations and Sponsorships as well to ensure adequate measures are in place to ensure the safeguarding of gifts as received from donors.

1.3. Internal control processes ensure, among others, compliance with the laws and regulations; prudent development of strategies and operational policies including regular reviews thereof; adherence to set policies, norms and standards; operational efficiency, and the regular monitoring and reliable reporting regarding operation's performance on achieving set objectives.

1.4. The Gifts, Donations and Sponsorships policy was developed and approved in 2015/2016 financial year and was subsequently implemented. During implementation process, the main challenge encountered was non-compliance to the policy, where a culture of receiving gifts for services rendered was becoming a norm and sponsorships were received by officials.

1.5. The acceptance of gifts, donations and sponsorship generate a negative public perception of corrupt behaviour.

1.6. The decision was taken by line manager after consultation with members of the unit and stakeholders with the view to strengthen compliance related provisions and to implement reviewed Public Service Regulation, 2016.

2. PURPOSE

2.1 To provide departmental prescripts and guideline to management and all employees when gifts, donations and sponsorships are received or granted on behalf of the OCJ.

2.2 To comply with the relevant legal prescripts governing the management of Gifts, Donations and Sponsorships.

2.3 To ensure the effective and efficient control, utilisation, optimisation of usage, safeguarding and management of gifts as well accurate recording of Gifts, Donations and Sponsorships.

2.4 To safeguard against potential conflict of interests among staff and OCJ reputational risk.

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3. TERMINOLOGY

Abbreviations	
DFI	Departmental Financial Instruction
DA	Delegation of Authority
OCJ	Office of the Chief Justice
PFMA	Public Finance Management Act, 1999 (Act no. 1 of 1999)
SG	Secretary General: Accounting Officer of the OCJ for purposes of the PFMA
JSC	Judicial Service Commission
SAJEI	South African Judicial Education Institute
PRECCA	Prevention and Combating of Corrupt Activities Act, 2004
Definitions	
Accounting	Means the recording of all receipts and issues and the continued recording thereof as approved by the Treasury
Acceptance	A voluntary reception of cash, item or service whether such cash, item or services is donated or sponsored
Donation	An offering received or offered to provide a cash or noncash gesture or from another party without expecting anything in exchange Prevention and Combating of Corrupt Activities Act (PRECCA) makes reference to "gifts" in defining gratification. PRECCA explains "gratification" as "... 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."
Designated Division Management	The level of management that is directly accountable to the Secretary-General of the OCJ and has been delegated in terms of Section 44 of the PFMA otherwise referred to as Head of Departments (HODs)
Employee	A person employed by the OCJ permanently or on contract
Financial Year	A 12 month period that starts on the 1st of April and ends on the 31st of March the following year
Granting	An unconditional transfer of cash or valuable item which is voluntary and non-reciprocal
Gift	A *gift* is a token which is bestowed voluntarily 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 family and relatives. For example: Someone paying your kids' school fees, discount for a car for one's mother, soccer tickets to one's spouse PRECCA makes reference to "gifts" in defining gratification. PRECCA explains "gratification" as "... 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."
Integrity & Ethics	A sub unit within the Risk Management services responsible of the

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Abbreviations	
	OCJ's integrity and ethics functions such as e-disclosure, gift registers and Remuneration of work outside Public Service (RWOPS).
Register	A proper record keeping of all Gifts, Donations and Sponsorship
Sponsorship	A person or organization that pays the cost of an activity or event in return for the right to get the information about the OCJ during the activity or event. It includes the payment of accommodation, transport, meals after receiving the invitation to speak at the conference arranged by external organisation.
Department	The Office of the Chief Justice (OCJ) for the purpose of this document

4. APPLICABLE LEGISLATIVE & LEGAL FRAMEWORK

4.1. Public Finance Management Act, 1999 PFMA

4.2. National Treasury Regulation: Chapter 21

4.3. Departmental Financial Instructions (DFI)

4.4. Public Service Act, 1994 PSA

4.5. Public Service Regulations, 2016

4.6. Prevention and Combating of Corrupt Activities Act 2004

4.7. Constitution of the Republic of South Africa, 1996

5. SCOPE OF APPLICATION

5.1. The policy applies to all the OCJ employees.

6. POLICY PRINCIPLES

6.1. The Risk Management Unit shall coordinate the management of gifts, donations and sponsorships received by or given to the Department. As the principal issue with the bestowal and acceptance of gifts, donations and sponsorships is frequently the unstated, recognition that the recipient, through acceptance is thereby beholden to the giver, and may have to perform a 'favour', which may not be strictly legitimate, appropriate or customary.

6.2. The principles for effective management of gifts, donations and sponsorships in OCJ are:

6.2.1. An employee must not receive or accept any gift from any person in the course and scope of his or her employment.

6.2.2. An employee must not receive, solicit or accept any gratification, as defined in section 1 of the Prevention and Combating of Corrupt Activities Act, 2004 ,

6.2.3. An employee must recuse herself or himself from any official action or decision-making process which may result in improper personal gain, and this shall immediately be properly declared by the employee;

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6.3. The general procedures outlined below must be complied with before acceptance of any gift, donations and sponsorships by the Department.

7. GENERAL PROCEDURES

7.1. Procedures to be followed when receiving or accepting the Gifts by employees,

7.1.1. An employee must not receive, solicit directly or indirectly or accept any gratification or, any gift, donation and sponsorship from any person.

7.2. Invitations for OCJ to speak at Conferences and Workshops arranged by external Organisation

7.2.1. All the invitation received to speak or present about the OCJ must be submitted to OCJ as department not to individual employees.

7.2.2. The invitations or requests must outline the topics that will be covered during the event, costs that will be covered by the organizers, time required and how it will benefit the OCJ.

7.2.3. The topic must be relevant to the mandate and functions of the OCJ.

7.2.4. The request must then be submitted to SG for approval

7.2.5. An employee shall not accept invitation to speak or present on the functions of the OCJ on an individual basis.

7.3. Procedures on Acceptance of Gifts, Donations and Sponsorships by the Department

7.3.1. The request for the gift, donation and sponsorship must be communicated to Line Manager or Director Court Operations or delegate.

7.3.2. The Line Manager or Director Court Operations or delegate must evaluate the following prior to the acceptance of gift or donation or sponsorship:

a) Acceptance of gifts, donations or sponsorship would not compromise the Department and raise public concern. If this is the case the gifts, donations or sponsorship must be turned down.

b) The gifts, donations or sponsorship accepted would be utilized to benefit the department.

7.3.3. Only the Accounting Officer or delegated approve the acceptance of gifts, donations and sponsorships by the Department.

7.3.4. All gifts, donations and sponsorships received during the course of the financial year shall be disclosed as a note in the annual financial statements of the Department.

7.3.5. When a donor or sponsor requests to remain anonymous the accounting officer must submit to treasury a certificate from both the Public Protector and the Auditor-

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General, which states that the identity of the donor or sponsor has been revealed to them, that they have noted it and have no objection.

7.3.6. All the sponsorships received by the department must be recorded in the gift, donation and sponsorship register.

7.4. Procedures on Granting of Gifts, Donations and Sponsorship by the Department

In other instances OCJ will offer gift, donation and sponsorship to other entities

7.4.1. The request for the gift, donation and sponsorship must be communicated to Line Manager/ Director Court Operations or delegate.

7.4.2. The Line Manager/ Director Court Operations or delegate must assess the relationship between the receiving party of gift/donation/sponsorship and the department taking into consideration the following:

a) The basis for determining which organization or entity that will benefit must be sound, open and transparent

b) The charity or non-profit organization must be registered or listed as a charity or other non-profit organization and may not receive overly similar grants from national or provincial departments

c) The amount donated reflects a true need of the organization, the need justification of the individual or organization must be addressed.

7.4.3. The Accounting Officer may approve the granting of gifts or sponsorship or donations or other movable property up to the reasonable value and only if the Department is convinced that such are in the best interest of the Department.

7.4.4. Prior to granting gifts, sponsorships or donations, the OCJ employees facilitating must disclose any interests, be it personal or family benefits that they have in the benefiting organization.

7.5. Non-Compliance and Sanction

7.5.1. It is the responsibility of management to ensure the implementation of the policy on gifts, donations and sponsorship.

7.5.2. Non-compliance with this policy and procedures prescribed is a gross misconduct and employees will be subject to disciplinary action.

8. ROLES AND RESPONSIBILITIES

8.1. Maintenance of the Departmental Gifts, Donations and Sponsorships Register

8.1.1. The Register must be maintained for all gifts, donations and sponsorships received by or given to the Department by each Region and Business Unit.

8.1.2. Each Region and Business Unit must submit gifts, donations and sponsorships register every quarter to Risk Management unit.

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8.1.3. A proper record for gifts, sponsorship or donation with the value of each item and location is maintained and all relevant parties are informed and they receive approved documentation such as Finance Unit.

8.1.4. Risk Management unit must consolidate the departmental gifts, donations and sponsorships register

8.2. Management of the departmental gifts and donations

8.2.1. All gifts must be kept safe and the verification on institutional gift asset items shall be conducted on quarterly basis.

8.2.2. Where a loss of a gift or donation is registered, loss control unit must be informed in taking the matter further.

8.2.3. If a gift value could not be determined by the relevant Departmental employee, a credible Organisation will be appointed to evaluate gift items.

8.2.4. All Superior Court and Business units are accountable for the implementation and enforcement of the OCJ Gift, donations and sponsorship policy. Risk Management services is responsible to monitor policy compliance.

9. POLICY IMPLEMENTATION AND REVIEW

9.1. This policy will be reviewed every Three years or when a need arises.

10. ANNEXURES

Annexure A	Acknowledgement of Policy Receipt Form
Annexure B	OCJ's Gift Register

11. POLICY APPROVAL

The signatories hereof, confirm adoption and approval of the policy.

Ms. B. Motene
Director: Risk Management

19 October 2018
Date

Ms. M. Sejosengwe
Secretary General: OCJ

22/10/2018
Date

Annexure A – ACKNOWLEDGEMENT FORM

Acknowledgement of the Office of the Chief Justice's Policy:.....

This form is used to acknowledge receipt of, and confirm agreement with the Office of the Chief Justice's Policy: .....

By signing below, I agree to the following terms:

a. I have received and read a copy of the "Office of the Chief Justice's Policy: .....
b. "and understand the same.
c. I agree to abide by the terms set out in the "Office of the Chief Justice' Policy:.....and to be bound thereby.
d. I understand and agree that failure on my part to comply with the terms as set out in the "Office of the Chief Justice's Policy: ..... may result in disciplinary action being taken against me which may lead to termination of employment and/or subject to legal action and/or civil prosecution.

Full Name: _____

Signature: _____

ID Number: _____

Persal Number: _____

Date: _____

OFFICE OF THE CHIEF JUSTICE
REPUBLIC OF SOUTH AFRICA

OCJ GIFT REGISTER

THE REGISTER FOR GIFTS AND HOSPITALITY FROM A SOURCE OTHER THAN A FAMILY MEMBER [1st QUARTER: April–June 2016]

No	SURNAME & INITIALS (RECEIVEROF GIFT/HOSPTALITY)	DESCRIPTION OF GIFT / HOSPITALITY	VALUE IN RANDS / ESTIMATE IF NO PRICE TAG IS PROVIDED	SOURCE	DATE OF RECEIPT
1					
2					
3					
4					

Signed by: Ms Memme Sejosengwe – SG OCJ: ..... Date: 07 July 2018