



Metropolitan Waterworks and Sewerage System

No Gift Policy

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ABOUT THIS POLICY

With the approval of the Governance Commission for GOCCs (GCG), the Metropolitan Waterworks and Sewerage System (MWSS) hereby adopts this No Gift Policy pursuant to the following:

1. Section 1, Article XI of the 1987 Constitution;
2. RA 3019, Anti-Graft and Corrupt Practices Act;
3. RA 6713, Code of Ethical Standards for Public Officials and Employees;
4. Code of Corporate Governance for GOCCs (GCG Memorandum Circular 2012-07);
and
5. No Gift Policy (GCG Memorandum Circular 2012-12)

This policy clarifies the meaning of “gifts” that may or may not be accepted by MWSS Trustees, Officers and Employees in relation to the constitutional principle that “Public Office is a Public Trust” while further reminding them to continuously lead modest lives.

In anticipation of certain future situations relative to the “acceptance or non-acceptance of gifts” by MWSS Trustees, Officers and Employees that may have not been covered by this policy, amendments shall be accordingly introduced to this “No Gift Policy” to fully address the issue.

GERARDO A. I. ESQUIVEL
Acting MWSS Chairman

I. Definitions of Terms

Section 1. Definition of Terms. – For purposes of this Manual, the following terms shall have the following meanings:

“Advertisements” refer to notice given in a manner designed to attract public attention; information communicated to the public, or to an individual concerned, by means of handbills or the newspaper. (Black’s Law Dictionary)

“Allowances” refer to an amount of money given or allotted usually at regular intervals for a specific purpose.

“Anti-Graft and Corrupt Practices Act” refers to Republic Act No. 3019, approved on August 17, 1960.

“A Thing of Monetary value” refers to one which is evidently or manifestly excessive by its very nature.

“Board of Trustees/Trustees” of MWSS refers to the collegial body that exercises the corporate powers, conducts all business of MWSS, whether it be formally referred to as the “Board of Trustees” or some other term in its Charter, Articles of Incorporation or By-laws.

“Charter” refers to R.A. 6234, as amended, creating the MWSS.

“Code of Conduct and Ethical Standards” refer to Republic Act No. 6713 approved on February 20, 1989.

“Commodatum” refers to a contract whereby one of the parties delivers to another something not consumable so that the latter may use the same for a certain time and return it.

“Discounts” refer to a deduction from the usual cost of something, typically given for prompt or advance payment or to a special category of buyers.

“Entertainment” refers to the action of providing or being provided with amusement or enjoyment.

“Favor” refers to an act of kindness beyond what is due or usual.

“Fellowship grant” refers to funding designed to help an applicant either financially or by providing valuable on-the-job training.

“Foreign grant” refers to economic, military, technical, and financial assistance given on an international and usually inter-governmental level with no repayment obligation.

“Gift” refers to a thing or a right disposed of gratuitously, or any act of liberality, in favor of another who accepts it and shall include a simulated sale or an ostensibly onerous disposition thereof.

“Gratuity” refers to a favor or gift, usually in the form of money, given in return for service.

“Honoraria” refers to an honorary or free gift; a gratuitous payment, as distinguished from hire or compensation for service; a lawyer’s or counselor’s fee. (Black’s Law Dictionary); An honorarium is defined as something given not as a matter of obligation but in appreciation for services rendered, a voluntary donation in consideration of services which admit of no compensation in money (Santiago vs. COA; GR. No. 92284, July 12, 1981).

“Loan” refers to simple loan and *commodatums* well as guarantees, financing arrangement or accommodation intended to ensure its approval. *Commodatum* refers to a contract whereby one of the parties delivers to another something not consumable so that the latter may use the same for a certain time and return it.

“MWSS Corporate Office”, MWSS-CO¹ refers to the MWSS office’s retained functions after the privatization in 1997, as differentiated from the functions of the MWSS Regulatory Office.

“Public Servant” refers to a government official or employee.

“Public Office” refers to the right, authority and duty created and conferred by law, by which for a given period, either fixed by law or enduring at the pleasure of the appointing power, an individual is invested with some portion of the sovereign functions of the government to be exercised by him for the benefit of the public.

“Public Officials” or *“Public Officers”* refer to elective and appointive officials and employees, whether permanent or temporary, whether in the career or non-career service, whether or not they receive compensation, regardless of amount, who are in the National Government, and all other instrumentalities, agencies or branches of the Republic of the Philippines, including government-owned-or-controlled corporations, and their subsidiaries.

“Rebates” refer to discount; reducing the interest of money in consideration of prompt payment. (Black’s Law Dictionary)

“Sponsorship” refers to the act of supporting a person, organization, or activity by giving money, encouragement, or other help.

“Trustee” refers to any member of the Governing Board of MWSS, whether it be formally referred to as the “Board of Trustees” or some other term in its Charter, Articles of Incorporation or By-Laws.

“Waiver” refers to the intentional relinquishment of a known right. (Castro vs. Del Rosario, 19 SCRA 196)

“Officers” refer to both members of the Management Committee and the Board Officers.

¹ Article 8 of Concession Agreement between MWSS and MWCI, 21 February 1997

“*Public Officials*” or “*Public Officers*” refer to elective and appointive officials and employees, whether permanent or temporary, whether in the career or non-career service, whether or not they receive compensation, regardless of amount, who are in the National Government, and all other instrumentalities, agencies or branches of the Republic of the Philippines, including government-owned-or-controlled corporations, and their subsidiaries.

SEC. 2. *Singular Term Include the Plural.* – Unless otherwise indicated in this policy, any reference to a singular shall apply as well to the plural, and *vice versa*.

SEC. 3. *Coverage.* – This policy shall be observed by the MWSS Board of Trustees and the Officers and Employees of the MWSS Corporate Office (MWSS-CO).

II. MANDATE OF MWSS

SEC. 4. *MWSS Mandate.* – Under its Charter, the MWSS is mandated to provide for the proper operation and maintenance of waterworks system to ensure an uninterrupted and adequate supply of potable water and the proper operation and maintenance of sewerage systems in its service areas, comprising the cities in Metro Manila, all of Rizal and Bulacan provinces, as well as portions of Cavite (Cavite City, Bacoor, Imus, Kawit, Noveleta and Rosario), and such other areas that may be included in the MWSS service areas in the future.

III. CONSTITUTIONAL POLICY GOVERNING PUBLIC OFFICERS

SEC. 5. *Accountability of Public Officers.* – Section 1, Article XI of the 1987 Constitution enunciates the accountability of public officers and employees, thus:

“**SECTION 1.** PUBLIC OFFICE IS A PUBLIC TRUST. Public officer and employees must, at all times, be accountable to the people; serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice; and lead modest lives.”

SEC. 6. *Reiteration of Accountability.* – Section 1 of the Code of Conduct and Ethical Standards of Public Officials and Employees² reiterates the accountability of Public Officials and Employees, thus:

“**SECTION 2.** DECLARATION OF POLICIES. It is the policy of the State to promote a high standard of ethics in public service. Public officials and employees shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence, and loyalty, act with patriotism and justice, lead modest lives, and uphold public interest over personal interest.”

²R.A. 6713

IV. LEGAL BASIS FOR NON-ACCEPTANCE OF GIFTS BY MWSS TRUSTEES, OFFICIALS AND EMPLOYEES

SEC. 7. *Policy of the Philippine Government.*³ – In line with the principle that public office is a public trust, there is a need to repress certain acts of public officers and private persons alike that constitute graft or corrupt practices or which may lead thereto.

SEC. 8. *Anti-Graft and Corrupt Practices Act.*⁴ – Among other acts or omissions, the following shall constitute corrupt practices of any public officer and thereby declared to be unlawful:

"(b) Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the Government and any other party, wherein the public officer in his official capacity has to intervene under the law."

"(c) Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any Government permit or license, in consideration for the help given or to be given"

SEC. 9. *Code of Conduct and Ethical Standards.*⁵ The Code of Conduct and Ethical Standards for Public Officials and Employees provides that "public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office."

V. DECLARATION OF THE MWSS-CORPORATE OFFICE OF A "NO GIFT POLICY"

SEC.10. *Declaration of Policy.*⁶ – Being constituted of public servants who adhere to the principle that public office is a public trust, MWSS is committed to the highest standards of ethics and conduct. MWSS requires that all of its officers and employees practice and demonstrate equal treatment, unbiased professionalism, and non-discriminatory actions in the performance of their duties and functions without expectation of any undue favor or reward. The MWSS adopts this "No Gift Policy" to avoid any conflict of interest or the semblance of a conflict of interest.

SEC. 11. *No Gift Policy.*⁷ – The MWSS Trustees, Officers and Employees shall NOT SOLICIT OR ACCEPT, directly or indirectly, any gift⁸, gratuity, favor, entertainment, loan⁹, or use of anything, or anything of monetary value¹⁰ from a person, groups, associations, or juridical entities, at any time, on or off the work premises, in the course

³ Sec 1. R.A. 3109, Anti-Graft and Corrupt Practices Act

⁴ Sec. 3, R.A. 3019, Anti-Graft and Corrupt Practices Act; Sec 2.2 of GCG MC 2012-12 – No Gift Policy

⁵ Sec. 7 (d), R.A. 6713, Code of Conduct and Ethical Standards for Public Officials and Employees

⁶Sec. 5, GCG MC No. 2012-12

⁷ Adopted from Section 7(d) of RA 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees) and its Implementing Rules and Regulations.

⁸Id.

⁹Loan covers simple loan and commodatum as well as guarantees, financing arrangement or accommodation intended to ensure its approval.

¹⁰ Id at 7

of their official duties during or in connection with any operation being regulated by, or any transaction which may be influenced or otherwise affected by the functions of their office.

SEC. 12. Exemptions. *The following are not covered by this rule:*

- 1) Honoraria given as speaker or resource person in seminars or where the MWSS officer or employee is participating by reason of his/her office subject to existing rules allowed by law.¹¹ The acceptance of honoraria shall follow Sec. 44, General Provisions of the General Appropriations Act of 2013.
- 2) Unsolicited gift of nominal or insignificant value¹² not given in anticipation of, or in exchange for a favor from a public official or employee or given after the transaction is completed or service is rendered. As to what is a gift of nominal value will depend on the circumstances of each case taking into account the salary of the official or employee, the frequency or infrequency of the giving, the expectation of benefits and other similar factors.¹³
- 3) A gift from a member of his family or relative as defined herein on the occasion of a family celebration and without any expectation of pecuniary gain or benefit.¹⁴
- 4) Nominal donations from persons with no regular, pending, or expected transactions with the department, office or agency which the official or employee is connected and without any expectation of pecuniary gain or benefits.¹⁵
- 5) Donations coming from private organizations whether local or foreign which are considered and accepted as humanitarian and altruistic in purpose and mission.¹⁶
- 6) Donations from government to government entities. The acceptance and/or retention of the following gifts or grants from foreign governments are allowed subject to the approval of the (1) Administrator for all officers and employees of MWSS and (2) Governance Committee for members of the Board of Trustees:
 - a. A gift in the nature of a scholarship or fellowship grant;¹⁷
 - b. A medical treatment whether or not availed locally or abroad of more than nominal value; or

¹¹ Sec. 53, GAA 2014

¹² e.g. 1) The acceptance and retention of certificates, plaques, cards, thank you notes, or other written forms of souvenir or mark of courtesy; 2) The acceptance of seminar bags and contents, and partaking of moderately priced meals and beverages that MWSS officers and employees obtain at events such as conferences and seminars and which are offered equally to all members of the public attending the event; 3) The acceptance of books, pamphlets, publications, and data and other information or reading materials that are directly useful to MWSS in the performance of its mandates, objectives and which books and other materials are given by individuals or organizations that have no pending business with MWSS as to create an actual or potential conflict of interest.

¹³ Adopted from the IRR of R.A. 6713; Rule X, Sec. 1 (f [1]).

¹⁴ Adopted from the IRR of R.A. 6713; Rule X, Sec. 1 (f [2]).

¹⁵ Adopted from the IRR of R.A. 6713; Rule X, Sec. 1 (f [3]).

¹⁶ Adopted from the IRR of R.A. 6713; Rule X, Sec. 1 (f [4]).

¹⁷ Adopted from the IRR of R.A. 6713; Rule X, Sec. 1 (f [5];(iij)).

- c. A travel grant or expense for travel taking place entirely outside the Philippines (such as allowances, transportation, food and lodging) if such acceptance is appropriate.
- 7) The acceptance by MWSS Officers and employees of a scholarship or fellowship grant, taking place within or outside of the Philippines (such as allowances, transportation, food and lodging) of more than nominal value, if such acceptance is appropriate and consistent with law and the interests of the MWSS subject to the approval of the (1) Administrator for all officers and employees of MWSS and the (2) Governance Committee for members of the Board of Trustees:
- 8) The acceptance or availment by MWSS officers and employees of grants from local or foreign institutions in the pursuit of the mandates, projects and activities, such as those coming from the ADB, World Bank, USAID, etc., provided that the availment thereof shall be strictly in compliance with applicable procurement laws, rules and regulations.

VI. OBLIGATIONS OF THE MWSS TRUSTEES, OFFICERS AND EMPLOYEES

SEC. 13. Requirement to Inform.¹⁸ – MWSS Trustees, officers and employees are required to officially inform any individual or organization with any actual or potential business with MWSS of this "No Gift Policy" including the reasons why MWSS has adopted such policy. MWSS shall likewise request the individual or organization to respect this "No Gift Policy".

Notices informing walk-in clients and visitors of the existence of this "No Gift Policy" shall be posted in conspicuous areas within the MWSS premises.

SEC. 14. Return and Acknowledgement of Gift.¹⁹ – If any MWSS Trustee, officer and employee receives a gift covered by this policy, such gift, if feasible, shall immediately and politely be declined. In the event that it is not feasible, or it is inappropriate or impractical, to return the gift, e.g. is a perishable item, the gift shall be donated to an appropriate charitable or social welfare institution.

An acknowledgment letter shall be sent to the donor informing him/her of the "No Gift Policy" or that the gift has been returned or donated to a charitable or social welfare institution.

VII. WRITTEN EXEMPTION

SEC. 15. Approval of Exemption.²⁰ – Any exemption to this No Gift Policy may be made only with the written permission of the Administrator insofar as it concerns officers and employees of MWSS and the Governance Committee for MWSS Board of Trustees.

VIII. MONITORING COMPLIANCE

¹⁸ Adopted from Sec. 7, GCG MC 2012-12 dated 18 September 2012.

¹⁹ Adopted from Sec. 7, GCG MC 2012-12 dated 18 September 2012.

²⁰ Adopted from Sec. 8, GCG MC 2012-12 dated 18 September 2012.

SEC. 16. *Employee Monitoring System.* – To promote this “No Gift Policy”, MWSS shall develop an “employee monitoring system” to be headed by the Administrator or his duly authorized representative. It shall focus on compliance with this policy and R.A. 6713 (the Code of Conduct for Government Officials and Employees), R.A. 3019 (Anti-Graft and Corrupt Practice Act) and other relevant laws and regulations.

For matters pertaining to the Board of Trustees, compliance with this policy may be elevated to the Governance Committee.

IX. PROCEDURAL GUIDELINES IN THE EVENT OF VIOLATION OF THE POLICY

SEC.17. *Sanctions.* MWSS follows Civil Service Rules on Employee Discipline. Before imposing penalties, due process is followed and a fact-finding or special committee is created for the purpose. The “Revised Rules on Administrative Cases in the Civil Service”²¹ but without prejudice to other criminal and administrative procedures and guidelines shall govern the prosecution of MWSS Trustees, Officers and Employees who may have violated this No Gift Policy.

X. MISCELLANEOUS PROVISION

SEC.18. *Amendments.* This policy may be amended by MWSS through the express permission and approval of the GCG. The approved amended policy shall likewise be posted in the MWSS’ website.

SEC.19. *Effectivity.* This Policy all be effective upon express approval of the GCG and shall be posted on the MWSS’ website upon receipt by MWSS of the approved copy.

²¹ Revised Rules on Administrative Cases in the Civil Service (RRACCS); CSC Resolution No. 1101502, 8 November 2011