



## ETHICS AND ANTI-CORRUPTION COMMISSION

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### GUIDE TO ACCOUNTING OFFICERS OF PUBLIC ENTITIES, STATE AND PUBLIC OFFICERS ON MANAGEMENT OF GIFTS, DONATIONS AND BENEFITS IN KIND

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The Ethics and Anti-Corruption Commission (EACC) is established pursuant to Article 79 of the Constitution as read together with Section 3 of the Ethics and Anti-Corruption Commission Act, CAP 79H. The Commission is mandated to ensure compliance with, and enforcement of the provisions of Chapter Six of the Constitution.

Article 76(1) of the Constitution which provides for financial probity of state and public officers, cautions state and public officers against compromising their integrity on the basis of seeking or receiving gifts, donations and such other benefits. As a general rule, any gift, donation or benefit, when given to a State or public officer on a public or official occasion shall be treated as a gift or donation to the State, and must be surrendered to the Republic unless exempted under an Act of Parliament.

The Leadership and Integrity Act, Cap.185C in section 14 as read with Part II of the Leadership and Integrity Regulations, 2015 provides the regulatory framework for gifting in public service. The general principles are outlined as follows-

1. **Permitted Gifts/Donations:** A state or a public officer acting in his or her official capacity may receive and be allowed to retain a gift as long as the gift is not monetary, and the value thereof does not exceed twenty thousand shillings. A gift that is in a category of items ordinarily given as a show of appreciation or expression of courtesy or protocol and within the ordinary standards of hospitality in the line of service of the State or public officer is permitted. However, even where a gift satisfies these conditions, it shall not be allowed if it is intended to compromise the integrity, objectivity, or impartiality of a state or public officer, or the receipt of such a gift shall create a potential conflict of interest.
2. **Prohibited Gifts/Donations:** A state or public officer shall not receive or accept any gift, donation or benefit in kind if; The gift is in cash or cash equivalents, the gift or donation is made in the form of jewelry, precious metals or stones, ivory, or other animal parts that is protected by law, where the gift or donation is made by a person or entity that has an interest or relationship with the State or public officer's organization, or where the gift or donation is from an outlawed donor such as proscribed organizations, blacklisted companies and enemy states.
3. **General Rules and Principles:**
  - a) A State or a public officer is prohibited by law from soliciting a gift, donation and benefits in kind. This applies irrespective of whether the gift or donation is permitted or not.
  - b) Whenever a state or public officer receives and accepts a gift or donation, the same must be declared to the public entity the State or public officer works, irrespective of the type or value of gift. It should be the entity itself that decides whether the officer shall be allowed to retain the gift or not.
  - c) Acceptable gifts and donations to a State or public officer should only be accepted where the offer and receipt of the gift is done with utmost transparency and openness; the offer and receipt of the gift is not done in secrecy or exclusivity of the donor and recipient; and the person making the offer is present at the time of presentation.
  - d) Gifts and donations received by State or public officer which are surrendered to the entity may be utilized by the entity, or be disposed of by the entity through the procedures as set out in the Public Procurement and Asset Disposal Act and Regulations thereunder.

- e) It is not mandatory to physically deliver all types of gifts to the public entity prior to their declaration and registration. Some gifts may, by their nature, remain in the custody or control of the State or public officer as the declaration and registration is going on. However, the officer should aptly and fully describe the gift for the benefit of the public entity, and for this purpose may provide photographs and other forms of description including valuation or market value comparison report.
- f) Materials meant for education, awareness and promotional purposes given by public entities to another public entity or to State or public officers need not be declared as gifts.
- g) A public entity may also develop and implement an internal Policy on Gifts, Donations and Benefits, to supplement and augment the applicable law.

**4. Register of Gifts, Donations and other Benefits in Kind:**

- a) It is the responsibility of a State or public officer to ensure that all gifts, donations or other benefits received or given are recorded in the Register, in the prescribed form.
- b) Accounting officers should ensure that the entity has operationalized and maintains the Register of Gifts, Donations and other Benefits received and given, in the prescribed format.
- c) A public entity is required, under Regulation 9 of the Leadership and Integrity Regulations, 2015, to within thirty days after the close of the financial year furnish EACC with a report specifying all gifts received and any gifts that the entity has disposed or intends to dispose. The report is mandatory, even if the entity has not received any gifts in the course of the year.

The Commission has noted that there is very low compliance with these requirements across the public service, and wishes to bring this requirement to the attention of State and public officers, and Accounting Officers of public entities, for compliance.

For any inquiry, more information or clarification, please contact EACC through the Secretary/Chief Executive Officer, Ethics and Anti-Corruption Commission, P.O. Box 61130-00200, Nairobi. Alternatively, EACC can be contacted through Customer Care on 0730997000, 0709781000, 0204997000 or email [customercare@integrity.go.ke](mailto:customercare@integrity.go.ke).

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