



# **AGRICULTURE AND FOOD AUTHORITY**

---

## **GIFT POLICY**

---

**JUNE 2020**



## TABLE OF CONTENTS

1.0	INTRODUCTION .....	1
2.0	POLICY STATEMENT .....	1
3.0	OBJECTIVES .....	1
4.0	DEFINITIONS .....	1
5.0	SCOPE AND APPLICATION OF THE POLICY .....	2
6.0	PROVISIONS OF THE LAW AND AFA CODE OF CONDUCT ON GIFTS .....	2
7.0	GENERAL GUIDELINES .....	5
8.0	EXCEPTIONS .....	6
9.0	DISCLOSURE .....	6
10.0	BREACH OF THIS POLICY .....	7
11.0	DISPOSAL OF GIFTS .....	7
12.0	EFFECTIVE DATE .....	8
APPENDIX I	.....	9
APPENDIX II	.....	10
FORM B-II	.....	10



## **1.0 INTRODUCTION**

To reinforce the commitment of Agriculture and Food Authority (AFA) in the administration of gifts and in line with the Public Officers Ethics Act, 2003 (Revised 2016), Leadership and Integrity Act, 2012, Leadership and Integrity Regulations, 2015 and the AFA code of conduct and ethics, the gift policy is developed to enhance the integrity, honesty and ethical dealings with employees and stakeholders.

## **2.0 POLICY STATEMENT**

The Authority shall not allow staff to accept money, gifts, and donations, or any consideration as an inducement or reward from other members of staff or public extended to them by virtue of their official position for any act or omission, which may influence their present or future actions or show favor or disfavor to any person.

## **3.0 OBJECTIVES**

This policy is a guide to all AFA staff to:

- i). Ensure compliance with applicable statutes, regulations and rules;
- ii). Demonstrate to employees the Authority's commitment to responsible corporate conduct;
- iii). Increase the likelihood of preventing and/or identifying unlawful and/or unethical behavior; and
- iv). Improve the quality, efficiency and consistency of providing services.

## **4.0 DEFINITIONS**

**"Gift"** means anything that confers a benefit to the recipient without any obligation to provide any benefit in return.

**"Staff"** or "employee" means any person who has entered into or works under a contract of service with the Authority or any person employed for wages or a salary and includes an intern.

**"Public Officer"** means any person, other than a State Officer, who holds a public office.

**"Authority"** means the Agriculture and Food Authority (AFA)

**"Commission"** means Ethics and Anti-Corruption Commission (EACC)

**"His/Him"** - implies both gender i.e. male and female.

## **5.0 SCOPE AND APPLICATION OF THE POLICY**

This policy applies to all staff of the Authority, including permanent, contractual and interns.

## **6.0 PROVISIONS OF THE LAW AND AFA CODE OF CONDUCT ON GIFTS**

This policy, provisions of the law and the AFA Code of Conduct and ethics have set guidelines which will protect staff from receiving bribes disguised as gifts or receiving gifts which can be construed to be bribes.

The enabling provisions of the law regarding good governance, integrity, transparency and accountability for Public Officers are: -

6.1 Article 10 (2) (c) of the Constitution read together with Article 232 (1) (a).

6.2 Other Statutes include:

- (i) The Public Officers Ethics Act, 2003
- (ii) The Leadership and Integrity Regulations, 2015
- (iii) The AFA Code of conduct and ethics

6.3 The Public Officers Ethics Act, 2003, section 11 provides: -

- 1) A public officer shall not use his office to improperly enrich himself or others.
- 2) Without limiting the generality of subsection (1), a public officer shall not:
  - a) except as followed under subsection (3) or (4), accept or request gifts or favours from a person who -
    - i) has an interest that may be affected by carrying out, or not carrying out the public officer's duties;
    - ii) carries on regulated activities for which the public officer's organization has a role; or
    - iii) has a contractual or similar relationship with the public officer's organization.
  - b) Improperly use his office to acquire land or other property for himself or



- another person, whether or not the land or property is paid for; or
- c) For the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.
- 3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organization;
- 4) Subsection (2) (a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.
- 6.4 An employee who receives a gift whose value exceeds twenty thousand shillings (20,000) shall, within forty-eight hours of reporting to the office, surrender it to the Authority;
- 6.5 Subject to the Leadership and Integrity Act, 2012 and the Leadership and Integrity Regulations, 2015, an employee of AFA shall not solicit a gift including soliciting or acceptance of a non-monetary gift in the form of a gratuity, hospitality, free passages, services or favors;
- 6.6 Although an employee may receive a non-monetary gift in his or her official capacity if the value of that gift does not exceed twenty thousand shillings, he shall not receive such a gift if in the opinion of that officer the gift is given with the intention of compromising his or her integrity, objectivity, impartiality or create potential conflict of interest.
- 6.7 An employee who receives a non-monetary gift under paragraph 6.6 shall do so where-
- a) the offer and receipt of the gift is done with utmost transparency and openness;
- b) the offer and receipt of the gift is not done in secrecy or exclusivity of the donor and recipient;
- c) the person making the offer is present at the time of presentation.
- 6.8 An employee who receives a gift in terms of this policy shall, irrespective of

the monetary value of the gift, declare the gift received to the Authority using the Gifts Declaration Form A, in Appendix 1.

6.9 The Authority shall cause a gift declared under paragraph 6.8 to be entered in the gifts register.

6.10 AFA shall keep and maintain registers of –

- a) gifts received by employees or public officers; and
- b) gifts given by the Authority to state or public officers.

6.11 The registers of gifts referred to under paragraph 6.10 shall be as specified in Forms B-I and B-II respectively, in Appendix II.

6.12 Where an employee has received a gift that cannot be immediately transported, AFA shall make arrangements for transportation of the gift.

6.13 The Authority shall store any gift received and maintain it in good condition until such time as it is donated or otherwise utilized.

6.14 A gift that is surrendered to the Authority under paragraph 6.9 shall be deemed to be the property of the Authority and shall be received and disposed of in accordance with the provisions of Public Procurement and Asset Disposal Act, 2005.

6.15 Where AFA receives a gift or a donation under section 14 (1) of the Leadership and Integrity Act, 2012, and decides to utilize the gift or donation, it shall register it in the same manner as any item procured by the Authority.

6.16 At the close of every financial year the Authority shall furnish the Ethics and Anti- Corruption Commission (EACC) with a report specifying:-

- a) all gifts received;
- b) any gifts it intends to dispose of; and
- c) any gifts it has disposed of.

6.17 Where the Authority has not received, disposed of or intends to dispose of, any gift, it shall nonetheless make the report in accordance with paragraph



6.16.

6.18 The report under paragraph 6.16 shall be submitted to EACC within thirty days after the close of the financial year.

6.19 EACC will review the report and if it ascertains that the employees or public officers have breached provisions relating to gifts, the Commission shall inform the Authority and require disciplinary measures to be taken against that employee or officer.

## **7.0 GENERAL GUIDELINES**

7.1 Staff will not directly or indirectly solicit or accept gifts, money or anything of value in connection with their employment with AFA;

7.2 Gifts that would influence or appear to influence an employee in the conduct of his responsibilities shall never be accepted;

7.3 Staff shall not accept a monetary gift;

7.4 Staff shall not accept any gift whose value exceeds Kshs.20, 000;

7.5 An employee cannot accept a gift from another employee who earns less pay unless the person giving the gift is not a subordinate and the gift is based on a strictly personal relationship;

7.6 Clauses 7.3, 7.4 and 7.5 do not prevent staff from accepting a gift from a relative, friend or subordinate for gifts given or received on exceptional circumstances such as illness, bereavement and or on special occasions when gifts are traditionally given or exchanged e.g. birthdays, graduation, marriage, retirement, anniversaries;

7.7 The timing of the gift or offer of a gift should be considered when determining if the gift is appropriate. An appearance of impropriety or undue influence is created when gifts are offered and/or accepted with frequency, of significant value or during a decision making process.

## **8.0 EXCEPTIONS**

Excepted from this policy are gifts such as awards given to employees in respect of performance, calendars, t-shirts, pens, desk organizers, trade show bags and all other items of small value that employees obtain, as members of the public, at events such as conferences, training events, seminars, and trade shows, that are offered equally to all members of the public attending the event. This includes food and beverages provided at events, exhibitor trade show floor locations, press events, and parties funded by conference or event sponsors.

## **9.0 DISCLOSURE**

- 9.1 Staff shall declare all gifts received to the Authority except gifts received as provided under clauses 7.6 and 8.0, using the Gifts Declaration Form A-Appendix I;
- 9.2 All staff of AFA are required to declare gifts received within 48 hours after reporting to the office, using the gift declaration form to the head of the department or Directorate. The head of the department or Directorate will enter the particulars of the gift into a gift register of all gifts received;
- 9.3 The gifts register is to be inspected regularly by the head of the directorate, department, region or station; or the integrity assurance officers. The directorates, departments, regions or stations shall open and maintain gift registers. (Appendix II) for recording all gifts received as per clause 9.2;
- 9.4 Any person, whether or not an officer or employee of AFA aware of any gift which is or may be in breach of this gift policy, may report to the Head of department or Directorate;
- 9.5 If the staff receives a gift and does not declare it as prescribed, he/she shall be in breach of this policy. Moreover, if any employee, who knows that a colleague is in receipt of a gift that he/she has not declared but fails to report the colleague is equally guilty of non-declaration;

- 9.6 If a staff has any question or doubt about whether a gift is appropriate, he/she should seek guidance from his/her supervisor before acceptance;
- 9.7 If any employee has questions or needs clarification of any aspect of this policy, the employee should check with their supervisor. If the supervisor is uncertain, the Gifts Oversight Committee is the arbiter of the gift policy to ensure consistent employee treatment across the Authority.

## **10.0 BREACH OF THIS POLICY**

- 10.1 Any employee who breaches the terms of this policy shall be guilty of gross misconduct and shall be liable to the disciplinary process in accordance with the law and the AFA Code of Conduct;
- 10.2 Responsibility for initiating disciplinary action the head of the directorate, department, region or Station shall institute disciplinary measures according to the code of conduct;
- 10.3 Besides, any employee who breaches the law as spelt out in the gift policy will be prosecuted under the relevant laws and legislation.

## **11.0 DISPOSAL OF GIFTS**

- 11.1 The Authority will dispose of gifts in line with the Public Procurement and Assets Disposal Act, 2015 and the Leadership and Integrity Regulations 2015;
- 11.2 The Authority will constitute a Gifts Oversight Committee to decide on the mode of disposal of the gifts subject to the regulations published by the Ethics and Ant-Corruption Commission (EACC). Members of the committee shall be appointed by the Director-General;
- 11.3 The committee shall develop guidelines that shall guide all staff on disposal;
- 11.4 The Gifts Oversight Committee shall meet every quarter.

## 12.0 EFFECTIVE DATE

This policy is effective from this 30<sup>TH</sup> day of JUNE 2020

Issued this 30<sup>TH</sup> day of JUNE 2020



**ANTHONY MURIITHI**  
**AG. DIRECTOR GENERAL**



**GIFT DECLARATION FORM**

***(To be submitted in duplicate. Attach relevant information or documentation relating to the gift)***

**PART 1**

Recipient's Name:.....

Recipient's designation:.....

National ID/Passport No.....

Recipient's Employer:.....

Name of the donor institution: .....

Name and title of the presenter:.....

Description of the gift:.....

The estimated value of the gift:.....

Current location of the gift:.....

Date of receipt/issuance of the gift:.....

Date of declaration of the gift:.....

The date the gift was surrendered where applicable:.....

Function at which the gift was received/ issued:.....

Signature of declarant:.....

**PART 11 - Recommendation of the Processing employee**

***Retain/Surrender (strike as appropriate)***

.....

.....

**Remarks of the Authorizing Employee**

.....

.....

.....

*Name and Designation of the Authorized Employee*

.....

*Signature and Date*



**APPENDIX II****FORM B-I****REGISTER OF GIFTS RECEIVED**

Serial No.	Name of The officer Receiving the gift	ID/PP No	Name of entity and officer giving the gift	Description of the gift	Estimated market value of the gift	Date of receipt of the gift	Occasion or Function in which the gift is offered	Date of Declaration of the gift	Date of surrender of the gift	Any other relevant information

**FORM B-II****REGISTER OF GIFTS GIVEN**

Item No.	Name of the officer giving the gift on behalf of the entity	Name of officer given the gift	Designation of the officer given the gift	Description of the gift	Estimated Market value of the gift	Date of giving the gift	Occasion or function in which the gift is given	Any other relevant information