

Guideline
under the Announcement of the Bangkok Metropolitan Administration (BMA)
on Policy of Not Accepting All Kinds of Presents and Gifts from Performing Duties
(No Gift Policy)

1. Background

Corruption and misconduct have long been important problems in Thai society. Causes and factors that lead to obvious corruption in the civil service system are the patronage system and interpersonal patronage behavior. The system and behavior lead to giving or receiving property or any other interest as recompense. Such acts affect not only the exercise of discretion or decision in performing duties under their responsible positions but also the public interest. Such acts, possibly with awareness or unawareness, intention or non-intention, have become common practices that are no longer seen as wrongdoing. The said behavior is considered an ethical misconduct of government officials which possibly leads to wrongful demands and agreeing to accept interest gained from corruption in the government agencies. Although in the past the Government has consistently formulated and enforced policies on solving the problem of corruption and misconduct, such problems still become even more severe and complicated. Therefore, it is necessary to establish guidelines or measures in preventing corruption with concrete results.

The Cabinet on 8th December 2020 approved the National Reformation Plan on Prevention and Suppression of Corruption and Misconduct (revised version) which has the overall goal of leading Thailand to the world's top 20 rankings on the Corruption Perception Index (CPI) within 2036. It includes measures to control, supervise, and monitor the management of public and private agencies. The Government data is opened to the public for access and inspection. Disciplinary enforcement and administrative measures are amplified. The efficiency of legal enforcement in the justice system is improved. Appropriate mechanisms in coordination for the prevention and suppression of corruption and misconduct at the strategic policy level are provided. The driving of policy and strategy is also set up so that Thailand will become a corruption-free country. The National Reformation Plan on Prevention and Suppression of Corruption and Misconduct (revised version) focuses on operating activities that will lead to significant changes in people's lives (Big Rock). Such operation is aimed at achieving concrete national reformation under the remaining period of the national reformation designated to be fulfilled within 5 years under the Constitution of the Kingdom of Thailand B.E. 2560 (2017). An important reformation activity stated in the 4th reformation activity regarding the development of the Thai civil service system to become transparent and free of benefit, and Clause 1.1 of the 1st Goal to have all governmental agencies declare that all their officials do not accept all kinds of presents and gifts from performing duties (No Gift Policy). Therefore, governmental agencies shall have "all their officials do not accept all kinds of presents and gifts from performing duties".

The Bangkok Metropolitan Administration (BMA), as a juristic person and a local administration government, has been authorized to provide public services to citizens residing in the area of Bangkok Metropolis. The said duty has been operated under the Bangkok Metropolitan Administration Act B.E. 2528 (1985) and its amendments. In order that the human resource management of the Bangkok Metropolitan Administration complies with the Bangkok Metropolitan Administration Civil Service and Personnel Act B.E. 2554 (2011); therefore, the Guideline on No Gift Policy is formulated based on activities leading to significant changes to people's lives (Big Rock) under the National Reformation Program (revised version) on Prevention and Suppression of Corruption and Misconduct. The Policy shall be used as the guideline for civil service administration according to the roles and missions of Bangkok Metropolitan Administration organizations and agencies. It will push forward good governance in the performance of Bangkok Metropolitan Administration organizations and agencies and also be part of the Integrity and Transparency Assessment (ITA).

2. Objectives

2.1 To prevent or reduce opportunities of accepting bribes or having conflicts of interest in different forms by Bangkok Metropolitan Administration officials or agencies;

2.2 To encourage Bangkok Metropolitan Administration officials to have a moral conscience in refusing to accept all kinds of presents and gifts from performing duties;

2.3 To create an organizational culture with integrity and transparency (Organization of Integrity) for strong and sustainable civil service system; and

2.4 To promote and upgrade the implementation under the National Strategy, the Master Plan under the National Strategy, and the National Reformation Plan on Prevention and Suppression of Corruption and Misconduct and be part of the Guideline on Integrity and Transparency Assessment (ITA).

3. Scope of Enforcement

The Guideline under the Policy of Not Accepting All Kinds of Presents and Gifts from Performing Duties (No Gift Policy) shall be enforced to Bangkok Metropolitan Administration civil officials and personnel and persons who perform other duties in agencies under the Bangkok Metropolitan Administration.

4. Definition

Bangkok Metropolitan Administration civil official means a person instated and appointed to government service and draws salaries from its budget of salary item or those granted from the Government budget of subsidy item to Bangkok Metropolitan Administration and such budget is allocated as the salary for its civil official under the Law on Regulation of Bangkok Metropolitan Administration Civil Service and Personnel.

Bangkok Metropolitan Administration personnel means Bangkok Metropolitan Administration employees and staff under the Law on Regulation of Bangkok Metropolitan Administration Civil Service and Personnel.

persons ...

persons who perform other duties in agencies under the Bangkok Metropolitan Administration means persons who work for the Bangkok Metropolitan Administration which ordinances of the Bangkok Metropolitan Administration, regulations, rules, and criteria impose the permanent or temporary performance or have the working timeframe not exceeding the Fiscal Year, and such persons receive wages, payment from the performance. Moreover, this also includes contractors by the individual service contract under the Regulation of the Ministry of Finance on Public Procurement and Supplies Administration mutatis mutandis.

Present means money or property given to each other as a friendly gesture, awards, gratuitous gifts, offers for assistance, offers for remuneration, and also includes other benefit which can be calculated into money such as giving privileges which are not ones provided to general persons for getting discounts on property and asset or having services or training and entertainment as well as bearing expenses for trips or tourism, accommodation, meals or any other same things whether it is giving cards, tickets or any other pieces of evidence, payment in advance or reimbursement as well as facilitation payment.

Property means the property under the Civil and Commercial Code and includes digital ones under the law of carrying on digital asset business.

Souvenir means thing brought and given to the beloved and respected one.

5. Measures Applied in Case of Violation or Non-compliance

5.1 Bangkok Metropolitan Administration civil officials and personnel as well as persons who perform other duties in agencies under the Bangkok Metropolitan Administration shall strictly observe the Announcement of the Bangkok Metropolitan Administration (BMA) on Policy of Not Accepting All Kinds of Presents and Gifts from Performing Duties (No Gift Policy);

5.2 In the case where there is an accusation or it was suspected that Bangkok Metropolitan Administration civil officials and personnel or persons who perform other duties in agencies under the Bangkok Metropolitan Administration violate or do not comply with the Announcement of the Bangkok Metropolitan Administration (BMA) on Policy of Not Accepting All Kinds of Presents and Gifts from Performing Duties (No Gift Policy); however, these actions are not considered as serious disciplinary misconduct or criminal offense, superiors who are authorized to give an order of placement, heads of agencies or authorized persons, as the case may be, shall give caution to or make an order to such persons to have improvement or operate in compliance with Bangkok Metropolitan Administration personnel administration procedures.

6. Measures on Follow-up and Inspection of Accepting All Kinds of Presents and Gifts

6.1 Bangkok Metropolitan Administration civil officials and personnel and persons who perform other duties in agencies under the Bangkok Metropolitan Administration, in all cases, avoid accepting all kinds of presents and gifts or any other benefit from performing duties, and they are obliged to inform outsiders of the Announcement of the Bangkok Metropolitan Administration (BMA) on Policy of Not Accepting All Kinds of Presents and Gifts from Performing Duties (No Gift Policy);

6.2 In the case where it is necessary and inevitable to accept presents and gifts and cannot return such objects to owners, each agency shall assign the responsible person to make a report on accepting presents and gifts or any other benefit, and the Report Form on Acceptance of Presents and Gifts or Any Other Benefit annexed to this Guideline shall be applied. Superiors who are heads of agencies shall be assigned to consider such report. The responsible person for the report shall collect such objects and donate to persons or external agencies for charity or public benefit, or operate under the superiors' consideration. Except in the case where such objects are consumption things, the discretion of heads of the recipient agencies shall be applied in managing these presents and gifts. In case of calendars, diaries, or other objects that can be used as the agencies' public relations media can be accepted as personal objects. After the agency finishes making the Report Form on the Acceptance of Presents and Gifts or Any Other Benefit under the Announcement of the Bangkok Metropolitan Administration (BMA) on the Policy of Not Accepting All Kinds of Presents and Gifts from Performing Duties (No Gift Policy) and has already acted according to the considerations, the agency shall submit the Report Form on Acceptance of Presents and Gifts or Any Other Benefit to the Bangkok Metropolitan Administration Anti-Corruption Follow-up Operation Center to collect and make an implementation report under the policy of the Governor of Bangkok every 6 months and 12 months.

6.3 In case of acceptance of presents and souvenirs among agencies under the Bangkok Metropolitan Administration, or between agencies under the Bangkok Metropolitan Administration and governmental agencies, such presents and souvenirs shall be properties of the Bangkok Metropolitan Administration. A person who accepts presents and souvenirs shall make a report on accepting presents and souvenirs by complying with the form annexed to this Guideline. Each agency shall assign the responsible person to keep the presents and gifts, and the agency shall submit the Report Form on Acceptance of Presents and Gifts or Any Other Benefit to the Bangkok Metropolitan Administration Anti-Corruption Follow-up Operation Center to collect and make an implementation report under the policy of the Governor of Bangkok every 6 months and 12 months.

7. Complaint or Whistleblowing Channels

By posts, by phone, or make a complaint in person at departments, district offices, or agencies under the Bangkok Metropolitan Administration, or any other channels set up by each organization under the Bangkok Metropolitan Administration.

8. Protective Measures for Complainants /Whistleblowers on Confidentiality

8.1 Measures for protecting and caring for persons who are threatened or defamed as a result of giving information or being witnesses, or being unfairly complained about complying with the Policy of Not Accepting All Kinds of Presents and Gifts from Performing Duties (No Gift Policy) shall act as follows:

8.1.1 In case of anonymous letters without signatures, addresses, and positions, such letters shall not be taken for consideration unless having clear evidence as well as specific personal witnesses;

8.1.2 In the case where the complainants specify their names, positions, and addresses, once superiors have been informed, such act shall be considered as the official secret. A copy of the complaint, withholding the complainants' names, shall be sent to the superior of the accused for a secret inquiry whether it is true or not, and if it was found that:

- In the case where there is no sufficient evidence that ones can be accused of disciplinary misconduct, such allegation shall be terminated, and it shall be reported to the notified superior. In the case where the complainants, as Bangkok Metropolitan Administration civil officials, personnel, or persons who perform other duties in agencies under the Bangkok Metropolitan Administration, make a false complaint, they shall be put into disciplinary action. In the case where the complainants are civil officials from other affiliations, ministries, bureaus, or divisions, a report of fact shall be submitted to superiors of such civil officials to use discretion and make an order as appropriate. In the case where outsiders, threatened persons, or accused persons desire to take criminal cases, they shall coordinate with the Legal and Litigation Office to act as an assistant in providing advice and suggestions in order to prevent defamation.

- In case the allegation has sufficient evidence and it is an offense, criminal proceedings shall be taken. If the alleged disciplinary misconduct is found to be true, an inquiry shall be implemented, or the inquiry committee shall be set up under laws on Regulations of Bangkok Metropolitan Administration Civil Officials and Educational Personnel coupled with Civil Service Regulations, Bangkok Metropolitan Administration Rules on Human Resource Management of Bangkok Metropolitan Administration Employee B.E. 2562 (2019), or Bangkok Metropolitan Administration ordinances, regulations, rules, criteria relating to the personnel administration of persons who perform other duties in agencies under the Bangkok Metropolitan Administration, as the case may be.

8.1.3 Superiors shall use discretion and give an order as appropriate to protect complainants as well as witnesses who provide information for inquiry from having been affected by dangers or unfairness which possibly result from such complaints, being witnesses, or providing information.

8.2 Measures for protecting whistleblowers who report malfeasance and corruption shall be taken as follows:

8.2.1 After having been initially notified, superiors shall consider such malfeasance and corruption the official secret and make concealment of names, surnames, addresses, photos, or other information which can be used to identify such whistleblowers and conduct a secret inquiry to see whether there is any truth to it.

8.2.2 In conducting the secret inquiry process to find out facts, in the case where it is found that whistleblowers are Bangkok Metropolitan Administration civil officials or personnel or persons who perform other duties in agencies under the Bangkok Metropolitan Administration or civil officials from other affiliations, ministries, bureaus or divisions or outsiders providing facts which are greatly beneficial to Bangkok Metropolitan Administration, such whistleblowers shall be entitled to receive recompense and benefit in return as appropriate like credits or certificates as the case may be, as a special case. In the case where it is found afterward that such whistleblowers make a false statement and if they are Bangkok Metropolitan Administration civil officials or personnel or persons who perform other duties in agencies under the Bangkok Metropolitan Administration, an inquiry committee shall be set up to take action under laws on Regulation of Bangkok Metropolitan Administration Civil Officials and Educational Personnel and laws on Civil Service Regulation, Bangkok Metropolitan Administration Rule on Human Resource Management of Bangkok Metropolitan Administration Employee B.E. 2562 (2019), or Bangkok Metropolitan Administration ordinances, regulations, rules, criteria relating to the personnel administration of persons who perform other duties in agencies under the Bangkok Metropolitan Administration, as the case may be. For civil officials from other affiliations, ministries, bureaus, or divisions, a report shall be made to superiors of such whistleblowers to use discretion and make an order as appropriate. For outsiders, in the case where injured persons require to take criminal cases, they shall coordinate with the Legal and Litigation Office which acts as an assistant in providing advice and suggestions.

8.3 Measures for protecting and caring for threatened or defamed persons. In the case where the complaint is made through media like televisions, radios, newspapers, or e-mail addresses of the Bangkok Metropolitan Administration, it shall be implemented as follows:

8.3.1 In case complainants do not specify names, or addresses, such complaint shall not be taken for consideration unless having clear evidence as well as specific personal witnesses;

8.3.2 In case the complainants specify their names and addresses, responsible agencies shall make a hierarchical report to superiors who are authorized to give an order of placement, and such superiors shall conduct an investigation and inquiry or initially consider whether such complaint has enough evidence that can be accused of disciplinary misconduct.

- In case such complaint has a reasonable ground to be accused of disciplinary misconduct: if it is the accusation of non-serious disciplinary misconduct in which such accusation and summary of witnesses and evidence are notified to the accused persons and explanation of accused persons is listened to, and it is found that the accused persons are guilty of the accusation, an order of suitable punishment shall be made without setting up an inquiry committee. In the case where the accusation is considered serious disciplinary misconduct, authorized superiors shall set up the committee for inquiry. In the case where it is an offense, criminal proceedings shall be taken.

- In the case where it considers that the allegation has no reasonable ground to be accused of disciplinary misconduct, such allegation shall be terminated.

8.3.3 In case complainants who are Bangkok Metropolitan Administration civil officials or personnel or persons who perform other duties in agencies under the Bangkok Metropolitan Administration make a false complaint, they shall be put into disciplinary action. In case such complainants are civil officials from other affiliations, ministries, bureaus, or divisions, a report of fact shall be submitted to the superior of such civil officials for using discretion and making an order as appropriate. In case such complainants are outsiders and the threatened persons or accused persons desire to take criminal cases, they shall coordinate with the Legal and Litigation Office to act as an assistant in providing advice and suggestions in order to prevent defamation.

8.3.4 In the case where complainants provide greatly useful and beneficial to the Government, such complainants shall be entitled to receive recompense and benefit in return as appropriate like credits or certificates as the case may be, as a special case.

8.3.5 In case the final inquiry is found that the threatened persons or defamed persons by media channels do not commit an offense as accused, such persons shall notify in a written letter to request the editor or related persons of such media for printing or doing anything to correct or deny such matter. The correction or printing shall be done immediately after receiving such letter. In the case where the editor or related persons fail to do so, such persons have the right to take commercial and criminal actions.

8.4 Any persons doing as specified below are prone to be illegal under Computer-related Crime Act B.E. 2550 and the amendments:

8.4.1 Dishonestly or by deception, entering wholly or partially distorted or false computer data into a computer system in a manner likely to cause damage to the general public; which is not defamation under the Criminal Code; and

8.4.2 Entering ...

8.4.2 Entering false computer data into a computer system in a manner which is likely to cause damage to the protection of national security, public safety, economic safety of the Kingdom of Thailand, and infrastructures which are for public benefit; or to cause panic to the general public.
