

Guideline

Annexed to the Announcement of the Bangkok Metropolitan Administration (BMA) on Policy of Not Accepting All Kinds of Gifts and Gratuities from Performing Duties (No Gift Policy)

1. Background

Corruption and misconduct have long been significant problems in Thai society. Causes and factors that lead to apparent 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 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 to prevent corruption with concrete results.

The Cabinet on 8th December 2020 approved the revised National Reformation Plan on Prevention and Suppression of Corruption and Misconduct which has the overall goal of leading Thailand to the world's top 20 rankings on the Corruption Perception Index (CPI) by 2036. It includes measures to control, supervise, and monitor the management of public and private agencies. The Government's data and information are open to the public for access and inspection. Enforcement of disciplinary measures 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 revised National Reformation Plan on Prevention and Suppression of Corruption and Misconduct focuses on operating activities that will result in significant changes to people's lives (referred to as "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 gifts and gratuities from performing duties (No Gift Policy). Therefore, governmental agencies shall have "all their officials do not accept all kinds of gifts and gratuities 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. To ensure 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), the Guideline for the “No Gift Policy” has been established, based on the significant reform activities (Big Rock) outlined in the revised National Reformation Program on Prevention and Suppression of Corruption and Misconduct. It shall be used as guidelines 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 gifts and gratuities from performing duties.

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

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 for the Policy of Not Accepting All Kinds of Gifts and Gratuities from Performing Duties (No Gift Policy) shall be enforced on the Bangkok Metropolitan Administration civil officials and personnel, as well as 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 laws on Regulation of Bangkok Metropolitan Administration Civil Service and Personnel.

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

“Persons who perform other duties in agencies under the Bangkok Metropolitan Administration” means persons who work for the Bangkok Metropolitan Administration where 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. 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*.

“Gratuity” means money or property given to each other as a friendly gesture, awards, gratuitous gifts, offers for assistance, and offers for remuneration. It also includes other benefits which can be calculated into money such as giving privileges which are not ones provided to general persons for getting discounts on property and assets 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 any properties under the Civil and Commercial Code and includes digital ones under the laws on digital asset business.

“Gift” means an item brought and given to someone beloved and respected.

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 the Policy of Not Accepting All Kinds of Gifts and Gratuities from Performing Duties (No Gift Policy).

5.2 In the case where there is an accusation or it is suspected that Bangkok Metropolitan Administration civil officials, personnel, and 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 the Policy of Not Accepting All Kinds of Gifts and Gratuities from Performing Duties (No Gift Policy), but not the serious disciplinary or criminal offense, superiors who are authorized to make an instatement order, heads of agencies or authorized persons, as the case may be, shall take actions to admonish that person for the wrongdoing or order that person to take development or proceed according to the human resource management process of the Bangkok Metropolitan Administration.

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

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

6.2 In the case where it is necessary and unavoidable to accept gifts and gratuities and returning these items to their owners is not possible, each agency shall assign the responsible person to make a report on the acceptance of such gifts, gratuities, or any other benefits. The report form on the acceptance of gifts and gratuities or any other benefits attached to this Guideline should be used for this purpose. Superiors who are heads of agencies shall be assigned to consider the report. The responsible person for the report shall be tasked with collecting such objects and donating them to persons or external agencies for charity or public benefit, or managing them under the superiors' consideration. For consumable items, the discretion of heads of the recipient agencies shall be applied in managing these gifts and gratuities. Calendars, diaries, or other objects that can be used as the agencies' public relations media can be accepted as personal belongings. After completing the report form on the acceptance of gifts and gratuities or any other benefits, as outlined in the Announcement of the Bangkok Metropolitan Administration (BMA) on the Policy of Not Accepting All Kinds of Gifts and Gratuities from Performing Duties (No Gift Policy) and having already acted according to the considerations, the agency shall submit the report form on the acceptance of gifts and gratuities or any other benefits to the Bangkok Metropolitan Administration Anti-Corruption Follow-up Operation Center. This submission is required every six months and annually to collect and report the results of policy implementation to the Governor of Bangkok.

6.3 In case of acceptance of gifts and souvenirs among agencies under the Bangkok Metropolitan Administration, or between agencies under the Bangkok Metropolitan Administration and governmental agencies, such gifts and souvenirs shall be properties of the Bangkok Metropolitan Administration. A person who accepts gifts and souvenirs shall make a report on the acceptance of gifts and souvenirs by complying with the form annexed to this Guideline. Each agency shall assign the responsible person to keep the gifts and souvenirs, and the agency shall submit the report form on the acceptance of gifts and souvenirs to the Bangkok Metropolitan Administration Anti-Corruption Follow-up Operation Center. This submission is required every six months and annually to collect and report the results of policy implementation to the Governor of Bangkok.

7. Complaint or Whistleblowing Channels

Complaints can be made by posts, by phone, or 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 and Confidentiality

8.1 Measures for protecting and caring for persons who are threatened or defamed as a result of giving information, being witnesses, or being unfairly complained about complying with the Policy of Not Accepting All Kinds of Gifts and Gratuities 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 into 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 receive the complaint, it shall be considered the official secret. A copy of the complaint, withholding the complainants' names, shall be sent to the superior of the accused for a confidential inquiry whether it is true or not, and if it was found that:

- In the case where there is no evidence that one can be accused of disciplinary misconduct, such allegation shall be dismissed and reported to the superior who receives the information. 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, submit false information to file a complaint, they shall be put into disciplinary action. In the case where the complainants are civil officials from different 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 wish 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 a legal offense, criminal proceedings shall be taken. If the alleged disciplinary misconduct is found to be true, an inquiry shall be conducted, or the inquiry committee shall be set up under the laws on Regulations of Bangkok Metropolitan Administration Civil Officials and Educational Personnel, coupled with laws on Civil Service Regulations Bangkok Metropolitan Administration Rules on Human Resource Management of Bangkok Metropolitan Administration Employee B.E. 2562 (2019), or in line with 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 ...

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 treat such report on malfeasance and corruption as an official secret. They will ensure the concealment of names, surnames, addresses, photos, or other information that can be used to identify such whistleblowers and conduct a confidential inquiry to determine whether there is any truth to it.

8.2.2 In conducting the confidential inquiry process to find out facts, in the case where it is found that whistleblowers are Bangkok Metropolitan Administration civil officials, personnel, or persons who perform other duties in agencies under the Bangkok Metropolitan Administration, civil officials from different affiliations, ministries, bureaus or divisions, or outsiders have provided facts which are of great benefit to Bangkok Metropolitan Administration, such whistleblowers shall be entitled to receive recompense and benefits 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, personnel, or persons who perform other duties in agencies under the Bangkok Metropolitan Administration, an inquiry committee shall be set up under the laws on Regulation of Bangkok Metropolitan Administration Civil Officials and Educational Personnel and laws on Civil Service Regulations, 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 different affiliations, ministries, bureaus, or divisions, a report shall be made to superiors of such whistleblowers to use discretion and make an order as appropriate. In case outsiders and injured persons wish to file criminal cases, they shall coordinate with the Legal and Litigation Office to act 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, shall be implemented as follows:

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

8.3.2 In case ...

8.3.2 In case the complainants specify their names and addresses, responsible agencies shall make a hierarchical report to superiors who have powers, and such superiors shall conduct an investigation and inquiry or initially consider whether such complaint has enough evidence to support the accusation of disciplinary misconduct based on the complaint.

- In the case where a complaint has a reasonable ground to be accused of disciplinary misconduct: if it is the accusation of non-serious disciplinary misconduct where such accusation and summary of witnesses and evidence are notified to the accused persons, 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 a legal offense, criminal proceedings shall be taken.

- In the case where it is considered that the allegation has no reasonable grounds to be accused of disciplinary misconduct, such allegation shall be dismissed.

8.3.3 In case complainants who are 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 case such complainants are civil officials from different affiliations, ministries, bureaus, or divisions, a report of fact shall be submitted to the superior of such civil officials to use discretion and make an order as appropriate. In case such complainants are outsiders and the threatened persons or accused persons wish 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 valuable and helpful information 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 in the media 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 publication 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 the Computer-related Crime Act B.E. 2550 (2007) and its 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 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.

Report Form

Acceptance of Gifts and Gratuities or Any Other Benefits or Souvenirs
 under the Announcement of the Bangkok Metropolitan Administration (BMA)
 on Policy of Not Accepting All Kinds of Gifts and Gratuities from Performing Duties (No Gift Policy)

I, (Mr./Miss/Mrs.)Position.....

Affiliation.....,

hereby make a report on the acceptance of gifts and gratuities or any other benefits or souvenirs under the Announcement of the Bangkok Metropolitan Administration (BMA) on Policy of Not Accepting All Kinds of Gifts and Gratuities from Performing Duties (No Gift Policy) as follows:

Date of Acceptance	Details of Gifts and Gratuities or Any Other Benefits or Souvenirs	Givers of Gifts and Gratuities or Any Other Benefits or Souvenirs				Opportunity of Acceptance	Acceptance on Behalf of	
		Public Sector	Private Sector	The Public	Others		Organization	Individual

Signed.....Reporter

Position.....

Date.....

For Superiors

Reference is made to the report on the acceptance of gifts and gratuities or any other benefits or souvenirs under the Announcement of the Bangkok Metropolitan Administration (BMA) on the Policy of Not Accepting All Kinds of Gifts and Gratuities from Performing Duties (No Gift Policy), the received item(s) shall be operated as follows:

- Given to agencies;
- Donated to outsiders or external agencies for charity or public benefits; or
- Others.....

Signed.....Superior

Position.....

Date.....

Remarks

1. Report shall be made to the superior for consideration every time after accepting gifts and gratuities or any other benefits or souvenirs; and
2. Report form on acceptance of gifts and gratuities or any other benefits or souvenirs shall be submitted to the Bangkok Metropolitan Administration Anti-Corruption Follow-up Operation Center.