

“NO GIFT POLICY” OF THE PHILIPPINE AMUSEMENT AND GAMING CORPORATION

I - BACKGROUND/LEGAL BASES

Constitutional Policy on Accountability of Public Officers

Section 1, Article XI, 1987 Constitution provides the general policy on accountability of public officers, thus:

ARTICLE XI ACCOUNTABILITY OF PUBLIC OFFICERS

Section 1. Public office is a public trust. Public officers 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.

Statutory Policy Governing Public Officers

The constitutional policy on accountability of public officers is reiterated in Section 2, Republic Act 6713¹, thus:

Sec. 2. *Declaration of Policy.* - 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.

Statutory Policies and Rules Against Acceptance of Gifts by Public Officers and Employees

Section 1, Republic Act 3019² states the general policy of the Government to repress certain acts which constitute graft or corrupt practices, thus:

¹ Code of Conduct and Ethical Standards for Public Officials and Employees

² Anti-Graft and Corrupt Practices Act

It is the policy of the Philippine Government, in line with the principle that public office is a public trust, to repress certain acts of public officers and private persons alike which constitute graft or corrupt practices or which may lead thereto.

Furthermore, Section 3, Republic Act 3019, provides that, among other acts or omissions, the following shall constitute corrupt practices of any public officer and thereby declared to be unlawful:

Section 3. *Corrupt practices of public officers.* - In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

xxx xxx xxx

(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 part, 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, without prejudice to Section thirteen of this Act.

xxx xxx xxx

While Section 14 of Republic Act 3019 provides for the Exception as follows:

Section 14. Exception. Unsolicited gifts or presents of small or insignificant value offered or given as a mere ordinary token of gratitude or friendship according to local customs or usage, shall be excepted from the provisions of this Act.

Nothing in this Act shall be interpreted to prejudice or prohibit the practice of any profession, lawful trade or occupation by any private person or by any public officer who under the law may legitimately practice his profession, trade or occupation, during his incumbency, except where the practice of such profession, trade or

occupation involves conspiracy with any other person or public official to commit any of the violations penalized in this Act.

Likewise, Section 7(d), Republic Act 6713, provides the general guidelines on the prohibition against solicitation or acceptance of gifts, thus:

Section 7. Prohibited Acts and Transactions. - In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

xxx xxx xxx

(d) *Solicitation or acceptance of gifts.* - 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.

As to gifts or grants from foreign governments, the Congress consents to:

(i) The acceptance and retention by a public official or employee of a gift of nominal value tendered and received as a souvenir or mark of courtesy;

(ii) The acceptance by a public official or employee of a gift in the nature of a scholarship or fellowship grant or medical treatment; or

(iii) The acceptance by a public official or employee of travel grants or expenses for travel taking place entirely outside the Philippine (such as allowances, transportation, food, and lodging) of more than nominal value if such acceptance is appropriate or consistent with the interests of the Philippines, and permitted by the head of office, branch or agency to which he belongs.

PAGCOR's "No Gift Policy" Under its Code of Conduct

The following "No Gift Policy" provisions are embodied in PAGCOR Code of Discipline:

Section 6.4.3. - Anti - Corruption.

PAGCOR shall comply with anti-corruption laws, such as but not limited to, Republic Act 3019, Republic Act, the Civil Service Law, the Revised Administrative Code of 1987 and pertinent provisions of the Revised Penal Code. We shall not offer, give, request, receive or participate in any way in the payment of a "kickback" or other improper payment to influence a business decision. In the event we become aware of the payment of a kickback or other improper payment in connection with the Company's business, we must immediately inform the Legal Department. In connection with the private sector only, this policy does not forbid the transmittal or receipt of occasional gifts or services of nominal value by employees. Entertainment of business contacts or prospects by employees or entertainment of employees by suppliers or others outside the Company is permissible, but must be reasonable.

Section 6.5.3. - B. Prohibited Acts

Company personnel shall not solicit or accept any gift, loan, gratuity, discount, favor, hospitality or service under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the Company personnel in performing official duties.

Mandate of GOCCs to Formally Adopt a "No-Gift Policy"

Pursuant to Section 29, GCG Memorandum Circular 2012-07, it is mandated that "(E)very Governing Board shall formally adopt a 'No Gift Policy' within the GOCC and ensure its full advertisement to the community and its strict implementation by particular set of rules."

Said Section 29, GCG Memorandum Circular 2012-07 was formally adopted as Section 23, PAGCOR Manual on Corporate Governance.

II - PAGCOR's "NO GIFT POLICY"

WHEREFORE, foregoing considered, the Philippine Amusement and Gaming Corporation (PAGCOR) hereby adopts and promulgates this set of rules to implement the "No Gift Policy", subject to the exceptions and limitations provided hereunder and in other laws and regulations.

1. ***Declaration of Policy.*** - It is PAGCOR's policy to promote a high standard of ethics, maintain honesty and integrity in public service and take positive and effective measures to prevent graft and corruption. PAGCOR officials and employees shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, efficiency and loyalty, act with patriotism and justice, lead modest lives and uphold public interest over personal interest.

In dealing with the public, PAGCOR requires all of its officers and employees to practice and demonstrate equal and fair treatment, unbiased professionalism, and non-discriminatory actions in the performance of their duties and functions, without expectation of any undue favor or reward.

2. ***Coverage.*** - This "No Gift Policy" shall apply to the Members of the Governing Board, officers, employees and consultants of PAGCOR.

3. ***No Gift Policy.*** - The Members of the Governing Board, officers, employees, and consultants of PAGCOR shall NOT SOLICIT OR ACCEPT, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from a person, groups, associations, or juridical entities, whether from the public or private sectors, local or foreign, which 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. They shall not offer, give, request, receive or participate in any way in the payment of a "kickback" or other improper payment to influence a business decision.

For purposes of this Policy, a thing of monetary value is one which is evidently or manifestly excessive by its very nature; 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 gratuitous disposition thereof; loan covers both simple loan and commodatum³ as well as guarantees, financing arrangement or accommodations intended to ensure its approval.

³ 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.

4. Exceptions. – Exempted from this “No Gift Policy” are the following:

a. Unsolicited gift of nominal or insignificant value, meals, entertainment or accommodation not given in anticipation of, or in exchange for, a favor 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, the common courtesies associated with accepted business practices in the gaming industry, and other similar factors.

Unsolicited gifts or presents of small or insignificant value offered or given as a mere ordinary token of gratitude or friendship according to local customs or usage shall be acceptable in accordance with Section 14 of Republic Act 3019.

b. Gifts from a member of the family or relative, within the 4th degree of consanguinity or affinity, on the occasion of a family celebration, and without any expectation of pecuniary gain or benefit.

c. The traditional customer gratuities (“tips”) given by a casino guest to PAGCOR employees with direct contact to customers when received in accordance with the industry practice and standards.

d. The acceptance by PAGCOR officers and employees of a scholarship, fellowship grant, travel grants or expense for travel 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 the interest of PAGCOR and the Government, and permitted by the PAGCOR Chairman.

e. The acceptance and retention of certificates, plaques, cards, thank you notes, or other written forms of souvenir or mark of courtesy.

f. The acceptance of seminar bags and contents, and partaking of moderately priced meals and beverages that 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;

g. Acceptance of books, pamphlets, publications, and data and other information or reading materials that are directly useful to PAGCOR in the performance of its mandates, objectives and, and which books and other materials are given by individuals or organizations that have no pending business with PAGCOR as to create an actual or potential conflict of interest.

5. **Registry System and Guidelines.** – PAGCOR shall maintain a registry system for recording the details of gifts and/or benefits enumerated in Item 4 above, given to PAGCOR, its Members of the Governing Board, officers, employees and consultants. The following guidelines shall be observed:

a. Acceptance and distribution of traditional customer gratuities (“tips”) as stated in item 4.c must be monitored by the Gaming Department (GD).

b. Exceptions under Items 4.d, 4.e, 4.f, and 4.g must be recorded by the Human Resource and Development Department (HRDD) in accordance with existing guidelines and procedures.

c. For unsolicited gifts or presents of small or insignificant value offered or given as a mere ordinary token of gratitude or friendship according to local customs or usage as stated in Items 4.a and 4.b, the Security Department shall ensure the proper implementation of the *No Gift Policy* and shall properly monitor and record the ingress and egress of the visitors, guests and all persons having business with PAGCOR in all corporate offices, casinos, and other properties.

6. **Regular Monitoring and Reporting**

The GD, HRDD, and SD shall regularly submit their respective monthly reports to the Compliance Officer who shall certify the proper implementation of the existing guidelines on the *No Gift Policy* and be guided further by, among others, the following standards under Rule X, Section 1(f) of the IRR of RA 6713, the Code of Ethical Standards for Public Officials and Employees:

“xxx 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.

In the event that any person becomes aware of any violation of the *No Gift Policy*, the same shall be immediately reported to the SD for preliminary investigation. Thereafter, a report shall be submitted to the Corporate Legal Services Department (CLSD) and/or the Corporate Investigation Unit for appropriate action in accordance with the existing internal guidelines and procedure.

7. **Requirement to Inform.** – PAGCOR covered individuals are required to professionally inform any individual or organization with any actual or potential

business with PAGCOR of this “No Gift Policy”, the reasons PAGCOR has adopted this policy, and request that such individual or organization respect such policy. Notices informing walk-in clients and visitors of the Policy shall likewise be posted in conspicuous areas within PAGCOR premises.

8. **Return and Acknowledgment of Gift.** - If PAGCOR, any of its covered individuals, receives a gift not covered by the exceptions above, 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.*, it 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.

9. **Amendment/Further Exception.** - Any further exemption and/or amendment to this “No Gift Policy” shall be made only with the written approval of the Governing Board.

10. **Penalties.** - This Policy shall serve as a supplement to existing laws, rules, or regulations covering gift-giving and receiving. Any violation of this Policy shall be subject to administrative sanctions under Civil Service Laws and Rules, PAGCOR Rules and Regulations, and other applicable laws. Insofar as practicable, all cases related to this Policy should be resolved first according to existing PAGCOR rules and regulations.

11. The provisions in the PAGCOR Code of Discipline and other internal rules and regulations not consistent with this Policy are deemed repealed or amended.