

“NO GIFT POLICY” OF THE SMALL BUSINESS CORPORATION

Pursuant to Section 29 of Memorandum Circular (MC) No. 2012-07 (**Code of Corporate Governance**) of the Governance Commission for GOCCs, every 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.

The “*No Gift Policy*” of SB Corp is embodied in Item 4.4.3 (d), Section 4 (Norms of Conduct) of the **Code of Conduct of Small Business Corporation**, which was approved by the Board of Directors through Board Resolution No. 1646, s. 2009 and became effective on 7 October 2009. In view of SB Corp’s policy to uphold the highest standards of ethics and conduct in public service and in order to underscore the importance of strictly adhering to the “*No Gift Policy*” under the said Code of Conduct, the following guidelines are hereby adopted:

1 **Legal Basis.** The “*No Gift Policy*” is in conformity with the following laws that were enacted to guide the conduct of public officials and employees:

1.1 Republic Act No. 3019, otherwise known as the “Anti-Graft and Corrupt Practices Act”, which declares as corrupt practices the following acts:

- “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 party, wherein the public officer in his official capacity has to intervene under the law.” (*Section 3, Republic Act No. 3019*)
- “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...” (*Section 3, Republic Act No. 3019*);

1.2 Presidential Decree No. 46, entitled “Making it Punishable for Public Officials and Employees to Receive, and for Private Persons to Give, Gifts on any Occasion, Including Christmas” which makes it “punishable for any public official or employee, whether of the national or local governments, to receive, directly or indirectly, and for private persons to give, or offer to give, any gift, present or other valuable thing on any occasion, including Christmas, when such gift, present or other valuable thing is given by reason of his official position, regardless of whether or not the same is for past favor or favors or the giver hopes or expects to receive a favor or better treatment in the future from the public official or employee concerned in the discharge of his official functions. Included

within the prohibition is the throwing of parties or entertainments in honor of the official or employee or his immediate relatives.”;

- 1.3 Republic Act No. 6713, otherwise known as the “Code of Conduct and Ethical Standards for Public Officials and Employees” which provides that “[p]ublic officials or 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.” (*Section 7, Republic Act No. 6713*)
- 2 **Definition of Gift.** For the purpose of the “*No Gift Policy*”, the term “gift” shall refer 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 onerous disposition thereof. (*Republic Act No. 6713*).
- 3 **Coverage.** The “*No Gift Policy*” shall apply to all members of the Board of Directors, officers and personnel of SB Corp. The term personnel shall include those who are occupying plantilla positions, as well as agency-hired personnel and those under contract of service arrangement with the Corporation.
- 4 **General Policy.** The Small Business Corporation shall uphold the “*No Gift Policy*”. As a general rule, the members of the Board of Directors, officers and employees of SB Corp shall NOT SOLICIT or ACCEPT, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person, group, association, or juridical entity, whether from the public or private sectors, at any time, on or off the work premises, where such gift is either:
 - 4.1 Given in the course of their official duties or in connection with any transaction which may be affected by the functions of their office;
 - 4.2 Illegal or in violation of laws;
 - 4.3 Part of an attempt to influence the actions of directors, officers or employees; or
 - 4.4 Create the appearance of a conflict of interest. (*Republic Act No. 6713; Section 29, GCG Memorandum Circular No. 2012-07*)
- 5 **Exceptions.** The prohibition in this policy excludes the following:
 - 5.1 Unsolicited gift of nominal or insignificant value not given in anticipation of, or in exchange for, a favor from SB Corp director, officer or employee or given after the transaction is completed or service is rendered. The propriety or impropriety of the foregoing shall be determined by its value, kinship, or relationship between giver and receiver and the motivation. 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.

- 5.2 A gift from a member of the family or relative of the director, officer or employee, on the occasion of a family celebration, and without any expectation of pecuniary gain or benefit;
 - 5.3 Nominal donations from persons with no regular, pending, or expected transactions with SB Corp, and without any expectation of pecuniary gain or benefits;
 - 5.4 Donations coming from private organizations whether local or foreign, which are considered and accepted as humanitarian and altruistic in purpose and mission;
 - 5.5 Donations from government to government entities;
 - 5.6 Gift of nominal value tendered or received as a souvenir or mark of courtesy; and
 - 5.7 Scholarship or fellowship grants, travel grants or expenses for travel taking place within or outside the Philippines (such as allowances, transportation, food and lodging) if appropriate or consistent with the interest of the government, and with prior approval by the proper authorities in accordance with applicable laws or regulations. (*Republic Act No. 6713*)
- 6 **Requirement to Inform.** SB Corp directors, officers and employees are required to professionally inform any individual or organization with any actual or potential business with the Corporation of the “*No Gift Policy*”, the reasons the Corporation has adopted this policy, and request that such individual or organization respect such policy. (*GCG Memorandum Circular No. 2012-12*)
 - 7 **Return and Acknowledgement of Gift.** – If SB Corp directors, officers or employees, receive a gift covered by the “*No Gift Policy*”, 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 acknowledgement 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. (*GCG Memorandum Circular No. 2012-12*)
 - 8 **Posting of the “No Gift Policy”.** The “*No Gift Policy*” shall be conspicuously displayed within the premises of SB Corp Head and Area Offices, as well as posted in the SB Corp website.
 - 9 **Penalties.** Any violation of the “*No Gift Policy*” shall be dealt with in accordance with Civil Service rules and regulations and other applicable laws.
 - 10 **Effectivity.** The “*No Gift Policy*” shall take effect immediately.