

Item 2 : Please provide response and/or information on the following issues :

Date and other details on which the ICAC's policy on exchange of gifts was incorporated into ICAC's Commission Standing Orders ("CSO"), and whether there have been any changes to the relevant part of the CSO thereafter.

- ICAC Staff Circular No.23/96 on "The Giving and Receiving of Gifts on Official Entertainment" was cancelled in August 2001 and the details on giving and receiving of gifts were incorporated in CSO (I) 09-03 on "Acceptance of Advantages". The policy on exchange of gifts was incorporated into the current version of CSO (I) 25-04 on "Entertainment Expenses and Offering/Exchange of Gifts" in October 2013. A copy of the relevant CSOs is attached (English version only).

Commission Standing Order (Part I)		
Chapter : 09	Title : Conduct and Discipline	Internal Reference : 09-03
Section : 03	Heading : Acceptance of Advantages	Version Date : 15.08.200
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Definition of "Advantage"

1. "Advantage" is defined in Section 2 of the POBO to mean almost anything which is of value, except entertainment which will be covered under Section 9-04. Common examples include any gift (both of money and in kind), loan, fee, reward, commission, office, employment, contract, service, favour, etc.

2. It may constitute an offence under Section 3 of the POBO if an officer solicits or accepts any advantage not in accordance with the general or special permission given under the AAN.

Restricted Advantages

3. The AAN lists the advantages that a government officer may solicit or accept without committing an offence under Section 3 of the POBO. Under this Notice, the Chief Executive has given general permission to an officer to solicit or accept advantages without restrictions (including favours and loans of objects) except for four types specified as "restricted advantages" which may only be solicited or accepted under certain circumstances having regard to the relationship with the offeror, the occasion the advantage is offered and the value of the advantage. The "restricted advantages" under the AAN are -

- (i) gifts (both of money and in kind);

- (ii) discounts;
- (iii) loans of money; and
- (iv) air, sea and overland passages.

4. An officer should read **Annex 9-1** (*Circumstances for Accepting Restricted Advantages*) to familiarize himself with the limited circumstances under which general permission is given under the AAN for him to solicit or accept any "restricted advantage". In case of doubt, he should seek clarification from his supervising officer at the Senior Commission Against Corruption Officer level (SCACO) or above.

Special Permission

5. In circumstances not covered by the general permission under the AAN, an officer should apply to his Head of Department for special permission (using the sample form at **Annex 9-2** (*Application for Special Permission to Accept Restricted Advantages*)) prior to or as soon as reasonably possible after accepting any "restricted advantage" in accordance with paragraphs 8 and 9 of the AAN.

Conflict of Interest

6. An officer may be liable to disciplinary action if he solicits or accepts any advantage (even one permitted under the AAN) if this has led, or could have led to a conflict between his private interests and his official duties or position. See also Section 9-05 on conflict of interest.

Acceptance of Advantages Presented in One's Official Capacity

7. An officer is discouraged from accepting advantages presented to

him in his official capacity. The policy of the Commission is to limit to the minimum the exchange of gifts on official occasions. Where an exchange of gifts is unavoidable on a particular occasion, the exchange should be made from organization to organization. Although it may be difficult formally to ask visitors not to offer any gift, it would be desirable to disclose the Commission's policy on this matter to other organisations wherever possible in advance.

Acceptance of Gifts

8. All gifts presented to an officer in his official capacity, including prizes won through free lucky draws or free raffle tickets during official functions are to be regarded as gifts to the Commission, which the officer receives on behalf of the Commission. Where it can be done without causing offence or embarrassment, the gift should be returned to the donor with a carefully worded explanation that Commission policy restricts the acceptance of gifts and a polite word of gratitude for the thought behind the gifts. A gift should only be accepted in circumstances where it is considered that its acceptance cannot be declined.

Report of Acceptance of Gifts

9. As soon as possible after gifts are presented and accepted, an officer should make a report to his Head of Department in the format shown in **Annex 9-3** (*Report on Acceptance of Gift Presented to an Officer in His Official Capacity*). Staff are not required to seek permission for accepting gifts of which are of no commercial or resale value, e.g. plaques, banners, pennants, printed calendars, laisee envelopes, which are marked with inscriptions and names of organisations. However, they are required to make reports to their supervisors at SCACO level or above who may decide how

these gifts should be disposed of. Where an officer wishes to retain the gift personally, he should seek prior approval from his Head of Department or the designated directorate officer.

Guidelines for Disposal of Official Gifts

10. The Commission's guidelines for the disposal of official gifts are set out at **Annex 9-4** (*Guidelines for the Disposal of Gifts Presented to an Officer in his Official Capacity*). Directorate officers wishing to retain gifts received on official occasions must seek permission from the Commissioner.

11. If an officer has any doubt about the disposal of gifts he has received on an official occasion, he should consult his Head of Department.

Acceptance of Honorarium

12. Notwithstanding CSR 550(j), ICAC officers are not allowed to receive honorarium for talks delivered on behalf of the Commission. Should it be considered offensive or difficult to reject a fee, the officer should make a report to the Assistant Director/Administration who shall arrange for the fee to be paid to the General Revenue via the Treasury.

Acceptance of Flight Awards

Flight Awards from Duty Travel

13. Duty air passages are normally booked through the Supplies Office. Any mileage awards will be credited to the Commission's corporate accounts, if applicable.

14. Where the airline offers awards to personal accounts only, an

officer may claim and accept the flight awards (see also para 16). However, the first call on the use of such awards arising from duty travel, including passages provided for overseas postings and training, must be for subsequent duty travel. This may include upgrading of passages or providing a passage for a spouse to travel with the officer where there is justification but where normal rules or funding would not permit public funds to be used.

15. If an award is not expected to be used for subsequent duty travel before the expiry date of the award, approval for an officer at SCACO and below to use the award for private purposes has to be sought from Assistant Director/Administration. In respect of directorate officers who wish to use such awards for a private purpose, approval must be sought from the Commissioner.

16. The Commission does not oblige officers on duty travel to claim flight awards from airlines. However, if and when such awards are claimed and credited to an officer's personal mileage account, the officer should report the awards to his Head of Department and the Administration Branch to facilitate planning for the possible use of the awards for subsequent duty travel. The officer must report to his Head of Department should there be a conflict of interest between the acceptance of the travel award and the officer's official duties.

Flight Awards from other Government Passages

17. Officers may accept flight awards earned from other government passages, including leave and leave-cum-duty passages. General permission has already been given under paragraph 4 of the AAN for them to accept such awards. Approval is also given under CSB Circular No 17/92 for officers to accept flight awards earned from other government passages, subject to the

conditions stipulated in paragraphs 13 to 15 above for awards arising from duty travel.

18. An officer should report to his Head of Department if there is a conflict of interest between the acceptance of the travel award and his official duties.

Courier Passages

19. All officers are **NOT** allowed to undertake courier duties and to accept the free or discounted passages offered.

Acceptance of Free Service

20. Although free service is regarded as an "unrestricted advantage" under the AAN for the purpose of Section 3 of the POBO, an officer should ensure that he has no official dealings with the service providers before accepting the service so that he will not be obligated to arbitrarily favour the service providers in their official dealings with the Commission. In case of doubt, an officer should consult his supervisor.

21. If an official relationship between the officer and the service provider arises after acceptance of the service, the officer should report the acceptance to his Head of Department so as to avoid a perceived conflict of interest.

**Commission
Standing Orders
(Part I)**

Chapter : 25

Section : 04

Title : Finance

**Heading : Entertainment Expenses
and Offering / Exchange of
Souvenirs**

Internal Reference : 25-04

Version Date : 04/10/2013

Entertainment Expenses

1. As a general principle, officers are reminded to exercise prudence when incurring official entertainment expenses and should adhere to strict economy in expenses to avoid giving any notion of unjustified expenses.

2. An officer may be reimbursed expenses incurred for provision of official entertainment which has been approved by C (for Commission-wide, Administration Branch and Corruption Prevention Department functions), H/Ops (for Operations Department functions) and DCR (for Community Relations Department functions). To allow sufficient internal control, all official entertainments hosted by Head of Department (HoD) (i.e. H/Ops, DCR and DCP) should be approved by C. For proper checks and balances, H/Ops will endorse official entertainments hosted by C; whereas AD/A will check compliance of those attended by both C and HoDs. Officers should seek approval **in advance** before the expenses are incurred and give justifications for the entertainment and choice of venue. The subject officer should complete a standard form (Form ICAC 569) specifying that the entertainment expenses are for official purpose and that the entertainment is essential and the prices paid are fair and reasonable. Officers hosting the entertainment should also observe the relevant guidelines on the rate of entertainment expenses as may be issued by the Administration from time to time.

3. Expenditure may be charged to the entertainment vote when it is –

- (a) directly related to the discharge of an officer's duties or a necessary part of making or maintaining contacts in his official capacity; and
- (b) in the public interest.

4. The expenditure per head, inclusive of food, beverages (both alcoholic and non-alcoholic) and tips, is currently subject to the following ceiling –

- (a) Operational liaison lunch : \$150
- (b) Lunch : \$350
- (c) Dinner : \$450

If the overall expenditure per head exceeds the ceiling rate, justifications have to be provided and C's approval must be sought.

5. All entertainment functions, irrespective of the vote chargeable and those arising from the publicity projects, are subject to the same approval authorities and ceiling rates as set out in paragraphs 2 and 4 above. When under the circumstances that entertainment expenditure is included in a package charge covering costs for meal, venue and tea session, etc that cannot be quoted as a separate item, the total expenditure should also be taken as entertainment expenditure in the same occasion. In case there are other expenditure items (e.g. wine, dessert, snacks, etc.) serving before, during or after the same function, such cost should also be included as part of the total entertainment expenditure and C's approval should be sought with justifications if the overall expenditure per head exceeds the ceiling rate. Splitting of bills or charging them to different votes is strictly prohibited.

6. Except for the following two occasions, official entertainment must be for non-government personnel -

- (a) entertaining representatives of staff associations; or
- (b) expressing appreciation to staff for exceptional achievements, significantly beyond the normal call of duty.

7. Expenditure arising from the presence of other Government officers and their spouses may be reimbursed when -

- (a) it is in the public interest that the principal guests (who are not civil servants) should meet such officers; or
- (b) it is necessary for such officers to assist in entertaining the principal guests.

8. Only guests directly related to the context of the official business should be considered for invitation for entertainment. Moreover, the number of Commission officers attending the event should be kept to the minimum and confined to those who are directly related to the context of the official business concerned. Except under very special circumstances and with full justifications given, the number of Commission officers should not exceed the number of guests.

9. When official entertainment is combined with private entertainment, only that proportion of the expenditure that is attributable to the presence of the host and hostess and of their official guests may be charged to public funds.

10. Expenditure on official entertainment should be fully supported by receipts wherever possible. Claims for expenditure on home entertainment when receipts are not produced must be supported by full details and certified as reasonable by C personally.

11. Vouchers must include sufficient supporting information to enable the Audit Commission to ascertain whether the provisions of the relevant regulations are complied with. The list of guests for a particular function must be retained for at least 12 months and produced for the Audit Commission's examination if required.

12. Tipping should strictly follow the guidelines issued by the Secretary for Financial Services and the Treasury -

<u>Entertainment Expenses</u>	<u>Amount of Tips</u>
Up to \$2,000	5% of the bill amount
From \$2,000 to \$4,000	\$100 maximum
Over \$4,000	\$200 maximum

Serving of Alcoholic Beverages

13. The use of hard liquor in official functions is banned while the purchase of wine for official purpose will be suspended if there is wine stock in the Commission. When table wine is required for official use, officers should draw from the existing wine stock kept under the custody of Supplies Officer/Administration Branch. Officer must include in his / her application for entertainment expenditure the number of bottles and the type of table wine he / she requests if the use of wine is deemed necessary. Bottles of wine drawn but remained unused after each official entertainment should be returned to Supplies Officer/Administration Branch for storage and record. On exhaustion of the office stock, officers may procure wine separately but the cost of wine consumed in official functions should be properly accounted for and included in the estimate / cost of the entertainment.

Gifts for Social Functions

14. It is customary for officers to present gifts when invited to social functions (such as wedding or birthday parties) hosted by local leaders who have frequent official contact with the Commission. Subject to the following financial limits on the value of such gifts, the expenditure involved is chargeable to Component 149 General Departmental Expenses Item 566 Official Entertainment (Local) -

<u>Gift</u>	<u>Maximum Value</u>
	(\$)
(a) one gift to be purchased when only one officer is invited	400
(b) one joint gift to be purchased when two officers are invited	600
(c) one joint gift to be purchased when more than two officers are invited	800

15. Officers are advised that as far as possible, gifts rather than cash should be offered. There is no particular restriction on the type of gifts and the general guideline is that a gift suitable to the occasion should be presented. Common sense and social norm should prevail. The greeting card accompanying the gift should contain all the names of the officers invited to the function.

Offering and Exchange of Gifts / Souvenirs

16. Offering of gifts / souvenirs to ICAC contacts are chargeable to Component 149 General Departmental Expenses Item 402 Office Stationery and Materials. As a general principle, officers should not offer gifts/souvenirs to official guests and should avoid as far as possible exchanging gifts/souvenirs with official guests. As appropriate, the organization concerned should be notified in advance of the arrangement and the Commission's economy drive. Where the exchange of gifts / souvenirs is unavoidable, officers should only present one standard souvenir inscribed with the ICAC logo (e.g. ICAC Building model, ICAC Annual Report or ICAC plaque, etc.) to the organisation concerned. No gift/souvenirs should be given on a personal basis. If it is deemed appropriate to present non-standard gifts/souvenirs to an organisation, the approval of HoD should be sought and Admin Branch should be duly alerted. For proper record of accounting purpose, the nature of gift/souvenir, quantity, value and officials/organisations presented with the gift/souvenir should be provided to the Finance Office, as far as possible, for effecting payment.

17. To enhance checks and balances, the Admin Branch will report to the Advisory Committee on Corruption on a regular basis any departure from the normal practice in respect of entertainment functions and presenting gifts/souvenirs to external parties.