

Effective 3/29/2014

Superseded 5/9/2017

63G-6a-2402 Definitions.

As used in this part:

- (1) "Contract administration professional":
 - (a) means an individual who:
 - (i) is:
 - (A) directly under contract with a procurement unit; or
 - (B) employed by a person under contract with a procurement unit;
 - (ii) has responsibility in:
 - (A) developing a solicitation or grant, or conducting the procurement process; or
 - (B) supervising or overseeing the administration or management of a contract or grant; and
 - (b) does not include an employee of the procurement unit.
- (2) "Contribution":
 - (a) means a voluntary gift or donation of money, service, or anything else of value, to a public entity for the public entity's use and not for the primary use of an individual employed by the public entity; and
 - (b) includes:
 - (i) a philanthropic donation;
 - (ii) admission to a seminar, vendor fair, charitable event, fundraising event, or similar event that relates to the function of the public entity;
 - (iii) the purchase of a booth or other display space at an event sponsored by the public entity or a group of which the public entity is a member; and
 - (iv) the sponsorship of an event that is organized by the public entity.
- (3) "Family member" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.
- (4) "Governing body" means an administrative, advisory, executive, or legislative body of a public entity.
- (5) "Gratuity":
 - (a) means anything of value given:
 - (i) without anything provided in exchange; or
 - (ii) in excess of the market value of that which is provided in exchange;
 - (b) includes:
 - (i) a gift or favor;
 - (ii) money;
 - (iii) a loan at an interest rate below the market rate or with terms that are more advantageous to the borrower than terms offered generally on the market;
 - (iv) anything of value provided with an award, other than a certificate, plaque, or trophy;
 - (v) employment;
 - (vi) admission to an event;
 - (vii) a meal, lodging, or travel;
 - (viii) entertainment for which a charge is normally made; and
 - (ix) a raffle, drawing for a prize, or lottery; and
 - (c) does not include:
 - (i) an item, including a meal in association with a training seminar, that is:
 - (A) included in a contract or grant; or
 - (B) provided in the proper performance of a requirement of a contract or grant;

- (ii) an item requested to evaluate properly the award of a contract or grant;
 - (iii) a rebate, coupon, discount, airline travel award, dividend, or other offering included in the price of a procurement item;
 - (iv) a meal provided by an organization or association, including a professional or educational association, an association of vendors, or an association composed of public agencies or public entities, that does not, as an organization or association, respond to solicitations;
 - (v) a product sample submitted to a public entity to assist the public entity to evaluate a solicitation;
 - (vi) a political campaign contribution;
 - (vii) an item generally available to the public; or
 - (viii) anything of value that one public agency provides to another public agency.
- (6) "Hospitality gift":
- (a) means a token gift of minimal value, including a pen, pencil, stationery, toy, pin, trinket, snack, beverage, or appetizer, given for promotional or hospitality purposes; and
 - (b) does not include money, a meal, admission to an event for which a charge is normally made, entertainment for which a charge is normally made, travel, or lodging.
- (7) "Kickback":
- (a) means a negotiated bribe provided in connection with a procurement or the administration of a contract or grant; and
 - (b) does not include anything listed in Subsection (5)(c).
- (8) "Procurement" has the same meaning as defined in Section 63G-6a-103, but also includes the awarding of a grant.
- (9) "Procurement professional":
- (a) means an individual who is an employee, and not an independent contractor, of a procurement unit, and who, by title or primary responsibility:
 - (i) has procurement decision making authority; and
 - (ii) is assigned to be engaged in, or is engaged in:
 - (A) the procurement process; or
 - (B) the process of administering a contract or grant, including enforcing contract or grant compliance, approving contract or grant payments, or approving contract or grant change orders or amendments; and
 - (b) excludes:
 - (i) any individual who, by title or primary responsibility, does not have procurement decision making authority;
 - (ii) an individual holding an elective office;
 - (iii) a member of a governing body;
 - (iv) a chief executive of a public entity or a chief assistant or deputy of the chief executive, if the chief executive, chief assistant, or deputy, respectively, has a variety of duties and responsibilities beyond the management of the procurement process or the contract or grant administration process;
 - (v) the superintendent, business administrator, principal, or vice principal of a school district or charter school, or the chief assistant or deputy of the superintendent, business administrator, principal, or vice principal;
 - (vi) a university or college president, vice president, business administrator, or dean;
 - (vii) a chief executive of a local district, as defined in Section 17B-1-102, a special service district, as defined in Section 17D-1-102, or a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act;
 - (viii) an employee of a public entity with:

- (A) an annual budget of \$1,000,000 or less; or
- (B) no more than four full-time employees; and
- (ix) an executive director or director of an executive branch procurement unit who:
 - (A) by title or primary responsibility, does not have procurement decision making authority; and
 - (B) is not assigned to engage in, and is not engaged in, the procurement process.
- (10) "Public agency" has the same meaning as defined in Section 11-13-103, but also includes all officials, employees, and official representatives of a public agency, as defined in Section 11-13-103.