

## Part 24. Unlawful Conduct and Penalties

63G-6a-2401 This part is known as "Unlawful Conduct and Penalties."

(1) "Contract administration professional":

(i) is:

(A) directly under contract with a procurement unit; or

(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;

3802 (b) includes:

(ii) money;

(iii) a loan at an interest rate below the market rate or with terms that are more

~~favorable than the interest rates offered generally on the market.~~

(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) "Bribe":~~

~~(a) means a negotiated bribe provided in connection with a procurement or~~

(v) the superintendent, business administrator, principal, or vice principal of a

(b) any individual other than a procurement professional or contract administration professional.

(5) The other subsections of this section do not affect the applicability or effect of any other ethics, bribery, or other law.

**63G-6a-2404. Unlawful conduct -- Exceptions -- Classification of offenses.**

(1) (a) It is unlawful for a person who has an official position...

agree to receive or accept, or ask for a promise or pledge of, a gratuity or kickback from a person who has or is seeking a contract with or a grant from a public entity.

(b) An individual is not guilty of unlawful conduct under Subsection (2)(a) for receiving or accepting, offering or agreeing to receive or accept, or asking for a promise or pledge of a contribution on behalf of a public entity, unless done with the intent that the public entity, in exchange:

- (i) award a contract or grant;
- (ii) make a procurement decision; or
- (iii) take an action relating to the administration of a contract or grant.

~~(2) Notwithstanding Subsections (1) and (2) it is not unlawful for a person to give or~~

receive, offer to give or receive, or promise or pledge to give or ask for a promise or pledge of, a hospitality gift, if:

- (a) the total value of the hospitality gift is less than \$10; and
- (b) the aggregate value of all hospitality gifts from the person to the recipient in a calendar year is less than \$50.

(4) A person who engages in the conduct made unlawful under Subsection (1) or (2) is guilty of:

- (a) a second degree felony, if the total value of the gratuity or kickback is \$1,000 or more;

1

