Procurement Procedures

Procurement Services (PS)

2.0 General Policies on Ethics, Conflicts of Interest and Gifts:

2.1 Ethical Guidelines

A. OVERVIEW

All faculty, staff and students must avoid conflicts of interest between their obligations to the University and their personal affairs. No faculty, staff member or student should have an economic interest in, or relationship with, any firm, person or corporation doing business with the University if there is a chance it could influence the employee’s or student's actions on behalf of the University.

Carnegie Mellon's buyers' code of ethics, gift guidelines for employees and anti-kickback clause, and conflict of interest policy are distributed annually to various University members, such as the University's Authorized Buyers, who attest to the requirements and return the signed forms to PS. (See Attesting to Ethics Compliance, below.) They are also reviewed during Procurement Card Cardholder training. Each Cardholder is required to sign a form indicating that he or she has been made aware of the University's policy. The ethics documents are available via the PS Web page at http://www.cmu.edu/procurementservices/. Questions related to purchasing ethics can be addressed by the Director of PS.

Purchasing from Employees

Purchases with University entrusted funds require all faculty, staff and students to declare if the supplier is a University employee, or if a University employee will receive monetary benefit from the purchase. Purchases from employees, or purchases exceeding $1,000 from firms in which University employees have a substantial ownership interest, must be reviewed and approved by the Director of PS to avoid potential conflicts of interest. If this situation might apply to an order, contact PS prior to making any commitment.

Confidentiality

All University employees and students in the University’s decentralized purchasing environment must be sensitive to issues of confidentiality. It is improper and prohibited to discuss and/or share pricing information, trade
secrets or proprietary information with or among suppliers. If there is any question regarding what information may be discussed, contact the Director of PS or the Strategic Procurement Manager.

Attesting to Ethics Compliance

Once every two years, PS will send copies of the University's conflict of interest policy, buyers’ code of ethics, gift guidelines and anti-kickback statement to all Authorized Buyers (Procurement Card Cardholders, Buyers and purchase order approvers). Each person who receives this material is required to sign and return the ethics cover letter and the Conflict of Interest Disclosure Form, attesting to their awareness of these statements and their agreement to comply with them. Questions about any of these topics should be directed to the Authorized Buyer’s supervisor or the Director of PS.

Carnegie Mellon Buyers’ Code of Ethics

Give first consideration to the objectives and policies of my institution.

Strive to obtain the maximum value for each dollar of expenditure.

Decline personal gifts or gratuities.

Grant competitive suppliers equal consideration insofar as state or federal statute and institutional policy permit.

Conduct business with potential and current suppliers in an atmosphere of good faith, devoid of intentional misrepresentation.

Demand honesty in sales representation, whether offered through the medium of a verbal or written statement, an advertisement, or a sample of the product.

Receive consent of originator of proprietary ideas and designs before using them for competitive purchasing purposes. Do NOT share vendor pricing information without written permission from the vendor.

Make every reasonable effort to negotiate an equitable and mutually agreeable settlement of any controversy with a supplier; and/or be willing to submit any major controversies to arbitration or other third party review, insofar as the established policies of my institution permit.

Accord a prompt and courteous reception insofar as conditions permit to all who call on legitimate business missions.
Cooperate with trade, industrial and professional associations, and with governmental and private agencies for the purposes of promoting and developing sound business methods.

Foster fair, ethical and legal trade practices.

Work on behalf of the interests of the University solely, and avoid situations that may result in personal benefit or gain to the buyer.

B. CONFLICT OF INTEREST AND BUYING ETHICS

The University's principal missions are education and research. In pursuit of these missions, or as a natural outgrowth of such activities, faculty and staff often become involved in outside activities. While extramural activities benefit the University and are generally encouraged, in some circumstances such activities give rise to conflicts of interest or buying ethics.

This policy addresses the circumstances in which conflicts of interest or buying ethics may occur, provides examples of the principles and processes outlined in this policy, and specifies a process for resolving potential conflicts. As used in this policy, the term "University members" means faculty (including instructors and special faculty appointments), staff (any employee of the University), and visiting faculty, trustees or students who have been authorized buying authority.

University members should use good judgment, professional commitment and ethics to protect themselves and the University from potential conflicts. Administrators and supervisors should make University members aware of this policy and create, by example, an atmosphere consistent with the University's missions.

In addition to the guidelines and processes in the University Purchasing Policy (ref: www.cmu.edu/policies/documents/Purchasing.html) as described below, some funding agencies of the federal government require grantees to conform to other disclosure and conflict of interest resolution procedures. A list of these agencies and the specifics of the requirements and procedures ("Guidelines for Investigator Financial Disclosure") are available from the Office of Sponsored Programs.
Conflicts of Interest and Buying Ethics

Conflicts of interest occur when University members are in a position to influence a decision, either on policy or regarding acquisitions where they might directly or indirectly receive financial benefit or give improper advantage to associates. Conflicts of commitment arise when University members' involvement in outside activities substantially interferes with their primary commitments to the University: to teach, to conduct research and to meet related obligations to students, colleagues and the University.

Statement of Principles

The purpose of this policy is to offer overall guidelines and not a list of particulars, for arranging outside activities and to provide a mechanism for resolving potential conflicts of interest or buying ethics.

Guidelines

The following guidelines are not inclusive and are not without exceptions. They provide examples of potential conflicts and processes for resolving them.

1. University members in a position to influence a University business decision for which they might receive material benefit should disclose the nature of the conflict to others involved in the decision. Whenever possible, those with potential conflicts should remove themselves from involvement in the decision. If the individuals should continue to participate in the decision process, discussion with supervisors and documentation of the potential conflict should be presented to the appropriate dean, director or department head.

2. University members should not engage in direct competition with the University either personally or through a firm in which they have a substantial interest. For example, such a circumstance may arise when an individual solicits a research award for which the University is a competitor or would have been a competitor had the individual properly acted as an agent of the University. In order to avoid such potential conflicts, the individual should consult the appropriate dean, director or department head.

3. Before contemplating outside employment or consulting activities, University members are required to disclose to the appropriate dean, director or department head potential conflicts of interest.

4. Faculty members must exercise prudence in directing students and supervised employees toward activities from which the faculty might financially benefit. The potential conflict is obvious, and faculty members are encouraged
to consult their dean, department head or colleagues for an independent evaluation of the activities' educational merits.

Additional Procedures for Resolving Potential Research Conflicts

The first and most important line of defense against conflicts of interest must be the University members themselves. Installation of a quasi-judicial system for monitoring and adjudicating potential conflicts will not serve the larger interests of the University. The University, therefore, strongly encourages University members to disclose to the appropriate dean, director or department head their outside commitments which may influence their judgment on acquisition decisions on a regular basis (e.g., during annual departmental reviews, evaluations, or whenever those commitments undergo significant change). In the event that potential conflicts cannot be resolved at this level, they should be referred to the Conflict of Interest/Commitment Subcommittee of the University Research Council (URC). This subcommittee will forward a recommendation to the chair of the URC for final resolution. Employees of the University who are equivalent to or in a position higher than the Chair of the URC shall refer unresolved conflicts to their superior(s).

Summary

The University actively encourages an open academic environment where teaching, conducting research, and disseminating knowledge are the principal goals of the Institution. To further these missions, the University has relied and shall continue to rely on the good judgment, professional commitment and moral ethics of the University members to protect themselves and the University from conflicts of interest and buying ethics.

Gift Guidelines

In order to avoid a conflict of interest, or the appearance of a conflict of interest, no University employee shall solicit or accept any gift, favor, loan, gratuity, reward, or promise of future employment that might influence or appear to influence the judgment or conduct of the employee vis-à-vis University business. Employees may accept occasional unsolicited courtesy gifts or favors (such as business lunches, tickets to social or sporting events or holiday baskets) so long as the gifts or favors are of nominal market value (less than $75), are customary in the industry, and will not influence or appear to influence the judgment or conduct of the employee vis-à-vis University business. Gifts of money or alcohol, however, cannot be accepted at any time. Please refer to the University Purchasing Policy at www.cmu.edu/policies/documents/Purchasing.html for detailed information and examples.
Individual departments within the University may impose further restrictions on gifts and favors for employees within the unit.

C. ANTI-KICKBACK

CLAUSE

Purpose

The purpose of this section is to inform all University employees of their responsibility to act in an ethical manner that brings the best overall value to the University and not to solicit and/or accept personal gain from any procurement transaction.

While this clause is generally used for all US government-sponsored research, the Office of Naval Research (ONR), which is the University’s overall Administrative Contracting Officer (ACO), has required all University buyers, and Procurement and Travel Cardholders to read, understand and sign off on this clause.

Definition

"Kickback" as used in this clause means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any University, University employee (principal investigator, buyer, executive, etc.), subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with an award.

Clause (FAR 52.203-7)

The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act) prohibits, when using US government funding, any person from:

- Providing or attempting to provide or offering to provide any kickback;
- Soliciting, accepting or attempting to accept any kickback; or,
- Including, directly or indirectly, the amount of any kickback in the contract price.

The Act imposes criminal and civil penalties on any person who, when using federal funding, knowingly and willfully engages in the prohibited conduct addressed above (reference FAR 3.502-2 (b) and (c) at http://www.acquisition.gov/far/index.html).
Applicability

This clause is designed to work hand-in-hand with the Carnegie Mellon Buyers' Code of Ethics to ensure that Carnegie Mellon University is represented in a professional manner that brings the best value to the University in all acquisitions.