Contents

1 Ethics............................................................................................................................................. 2
  1.1 Carnegie Mellon Buyer Code of Ethics ............................................................................... 2
  1.2 Confidentiality .................................................................................................................... 3
  1.3 Gifts .................................................................................................................................... 3
2 Conflict of Interest ........................................................................................................................ 3
3 Laws and Regulations ................................................................................................................... 4
  3.1 Foreign Corrupt Practices Act............................................................................................. 4
  3.2 Anti-Kickback Clause........................................................................................................... 4
1 Ethics

The university has a number of policies and principles related to ethics. It is the responsibility of members of the university community ("university members") to have read and to adhere to the university’s policies and principles, including, but not limited to, the Carnegie Mellon University Code of Business Ethics and Conduct, Carnegie Mellon University Purchasing Policy, Carnegie Mellon University Policy on Conflict of Interest/Commitment and Compliance with Financial Conflict of Interest Requirements.

On purchases made under federally sponsored awards, the university is also held to the procurement standards set forth in the Office of Management and Budget Uniform Administrative Requirements, Cost Principles and Audit Requirements and the Federal Acquisition Regulations (FAR) depending on the type of award and award specific language.

1.1 Carnegie Mellon Buyer Code of Ethics

It is the responsibility of university members to work on behalf of the interests of the university and avoid situations that may result in personal benefit or gain to the buyer or others involved in the transaction. Costs incurred by the university must be necessary and cost-effective.

Carnegie Mellon utilizes the Code of Ethics endorsed by the National Association of Educational Procurement (NAEP). The NAEP mission is to facilitate the development, exchange and practice of effective and ethical procurement principles and techniques within higher education and associated communities.

- 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 all 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.
- 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.

1The term "university members" refers to employees, officers, and agents. This includes 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.
• 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.

• Counsel and cooperate with NAEP Members and promote a spirit of unity and a keen interest in professional growth among them.

1.2 Confidentiality

University members may have access to confidential, proprietary or private information including, but not limited to, student records, employee records, university business information, personally identifiable information, intellectual property and other information subject to contractual or legal obligations of confidentiality. All university members must follow all applicable legal, contractual and policy restrictions on the use, disclosure and safeguarding of such information. Existing university policies and principles involving appropriate treatment of confidential information can be found in Section 7, Appropriate Treatment of Confidential and Private Information of the Carnegie Mellon University Code of Business Ethics and Conduct.

1.3 Gifts

In order to avoid conflicts of interest, or the appearance of conflicts of interest, no university member shall solicit or accept any gift, favor, loan, gratuity, reward, or promise of future employment that might influence or appear to influence university business. University members 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 university business. Gifts of money or alcohol, however, cannot be accepted at any time. Please refer to the Carnegie Mellon University Purchasing Policy for detailed information and examples. University members shall consult their immediate supervisor or the Director of Procurement Services for guidance and disposition should a questionable situation arise.

Individual departments within the university may impose additional restrictions for their department.

2 Conflict of Interest

University members should use good judgment, professional commitment and ethics to protect themselves and the university from potential conflicts of interest when purchasing. 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 material benefit or give improper advantage to associates, including subsidiaries of the university or other suppliers.

Conflicts of interest are governed by the university’s policy on Conflict of Interest/Commitment. On purchases made under federally sponsored awards, the university is also held to the following clause under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance).
“No employee, officer, or agent (collectively “university members”) may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.”

The Office of the Vice President of Research and the Office for Research Integrity and Compliance (ORIC) are responsible for compliance with financial conflict of interest regulations and policy. Additional information and guidance can be found on the ORIC website.

3 Laws and Regulations

The university must maintain compliance with applicable laws and regulations when conducting university business. The following subsections focus on two examples of purchasing related regulations.

3.1 Foreign Corrupt Practices Act

As a general matter, the anti-bribery provisions of the U.S. Foreign Corrupt Practices Act (“FCPA”) make it unlawful to bribe a foreign official for the purpose of obtaining or retaining business for or with or directing business to any person, or for the purpose of otherwise securing an improper advantage.

Although this basic prohibition against bribery is relatively straightforward, the terms used in the FCPA have special definitions that make the statute broader than it initially seems.

The university complies with the FCPA in its dealings with foreign officials, as that term is defined in the law. The university expects all university members to comply with the FCPA as well, and expects them not to take any action that could cause the university not to be in compliance with the FCPA.

The Office of General Counsel is responsible for ensuring compliance with the FCPA.

The Office of General Counsel is responsible for ensuring compliance with the FCPA and has published detailed FCPA Guidance.

3.2 Anti-Kickback Clause

The purpose of this section is to inform all university members of their responsibility to act in an ethical manner that delivers the best overall value to the university and not to solicit and/or accept personal gain from any procurement transaction.
"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 prime contractor (university and/or Principal Investigator), prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract, or in connection with a subcontract relating to a prime contract.

The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) and corresponding FAR 52.203-7 prohibits, when using U.S. 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 (FAR 3.502-2 (b) and (c)).