ETHICS IN PURCHASING AND GIFT POLICY

POLICY STATEMENT

Ethics in Purchasing/Sales – General Policy

All Florida International University employees who are engaged in purchasing on behalf of the University must conduct business dealings in an unbiased manner that is above reproach in all respects. When purchasing on behalf of the University, FIU employees have the responsibility and duty to process such purchases in compliance with the highest ethical standards.

FIU employees must not accept or solicit anything of value if it might be perceived as influencing their official actions. To this end, purchases from the University or from University vendors may only be made at prices and upon terms generally available to all University employees or the general public.

Finally, FIU employees are prohibited from corruptly using or attempting to use their positions in order to obtain special benefits or privileges for themselves or others.

Restrictions on Doing Business with the University

Employees may not rent, lease or sell any realty, goods or services to the University or act as an agent in the rental, lease or sale of realty, goods or services on behalf of another person or entity. This restriction also applies to a business entity in which the employee, his or her spouse, or child owns more than a 5% interest.

Employees may not purchase, rent, or lease any realty, goods, or services for the University from a business entity in which the employee, his or her spouse or child owns more than a 5% interest.

Employees are also prohibited from holding any employment or contractual relationship with any business entity doing business with the University.

Florida law also prohibits any University employee from having any employment or contractual relationship that would create a continuing or frequently recurring conflict between the University employee’s private interests and the performance of his/her duties at the University.

The foregoing restrictions do not apply in certain narrowly defined circumstances which are expressly set forth in the Florida Code of Ethics, including:

- The purchase or sale is for legal advertising in a newspaper, for any utilities service, or for passage on a common carrier.
- An emergency purchase or contract must be made in order to protect the health, safety, or welfare of the citizens of the state or any political subdivision thereof.
- The total amount of the transactions in the aggregate between the business entity and the University does not exceed $500 per calendar year.
- Technology transfer agreements, including intellectual property licenses and research agreements, if specifically approved by the University president and the chair of the university board of trustees. Please refer to the Division of Research Procedure #2370.005(a), Ethics in Purchasing for Research and Intellectual Property Contracts under Florida Law for more information.
In accordance with FIU’s Conflict of Interest policy #1710.075, employees are required to file a Report of Outside Activity Form with the University. Outside activities which could implicate these restrictions on doing business with the University should be disclosed in detail through the Report of Outside Activity Form so that a determination may be made as to the (im)permissibility of the activity.

**Personal Gifts**

The State of Florida Code of Ethics for Public Officers and Employees limits the ability of certain University employees, referred to as procurement employees and reporting individuals, to solicit or receive personal gifts from a vendor doing business with the University, a political committee or a lobbyist to the University. (Terms procurement employee, reporting individual, vendor, political committee, and lobbyist are defined below).

No personal gifts in any amount may be solicited by procurement employees or reporting individuals from a vendor doing business with the University, a political committee or a lobbyist to the University.

No personal gifts in excess of $100 may be received by any procurement employees or reporting individuals from a vendor doing business with the University, a political committee or lobbyist to the University. Importantly, if the lobbyist is a registered lobbyist (a lobbyist who has filed a registration to appear before any State agency) who is now seeking to do business with, or actually doing business with the University, procurement employees and reporting individuals are prohibited from knowingly accepting, directly or indirectly, a gift from the registered lobbyist in any amount.

Effective May 1, 2013, a reporting individual or procurement employee or a member of his or her immediate family (parent, spouse, child or sibling), is prohibited from soliciting or knowingly accepting, directly or indirectly, any gift from a political committee. The political committee is likewise prohibited from giving, directly or indirectly, any gift to the reporting individual or procurement employee or a member of his or her immediate family. For purposes of a gift from a political committee, gift is defined as “any purchase, payment, distribution, loan, advance, transfer of funds, or disbursement of money or anything of value that is not primarily related to contributions, expenditures, or other political activities authorized pursuant to chapter 106 (which addresses Campaign Financing). Violation of this prohibition carries a civil penalty equal to three times the amount of the gift, in addition to other penalties prescribed by the Code.

Nothing contained herein limits the ability of procurement employees or reporting individuals from receiving personal gifts from relatives.

**Institutional Gifts and Fundraising Activities**

The State of Florida Code of Ethics for Public Officers and Employees does not limit or restrict any University employees’ ability to solicit or receive gifts on behalf of the institution. Procurement employees and reporting individuals may accept gifts in excess of the amounts stated herein when such a gift is intended to be transferred to the University or the University foundations, and the gift is immediately transferred upon receipt.

The University recognizes that there may be instances in which, in connection with a fundraising event, a donor or prospective donor may wish to provide an unsolicited personal gift to a University employee (such as an invitation to a lunch or dinner, or tickets to a cultural or sporting event). If the donor or prospective donor is a vendor doing business with the University, a political committee or a lobbyist to the University, the $100 threshold described above would apply. If the donor or prospective donor is not a vendor doing business with the University, a political committee or lobbyist to the University, then the employee may accept the unsolicited personal gift even if the value of the gift exceeds the $100 threshold.

**Gifts from Lending Institutions - Restrictions Applicable to All Employees**

All Florida International University officers, trustees and employees are prohibited from accepting anything of more than nominal value on their own behalf or on behalf of another person or entity from any Lending Institution. (See Student Loan Practices Code of Conduct in Related Information Section below).

**Special Rules for Purchasing Department Employees**

In order to effectively eliminate the appearance of favoritism that may arise if University Purchasing Department employees accept gifts from any vendor doing business with the University, political committee or lobbyists, all University Purchasing Department
employees are prohibited from accepting gifts from any vendor doing business with the University, political committee or lobbyist to the University in any amount.

REASON FOR POLICY (O*)
Florida International University employees are governed by the provisions of the Code of Ethics for Public Officers and Employees, Part III of Chapter 112, Florida Statutes (the “Code.”) This policy has particular application to those employees who are involved in the purchase of goods and services for the University and to those employees who are deemed procurement employees and reporting individuals under Florida law. It is the intent of this policy to provide guidance to these University employees regarding their ability to solicit or receive gifts from any vendor doing business with the University, political committee, or lobbyists to the University, so that they may abide by the requirements of the Code.

RELATED INFORMATION (O*)
State of Florida Code of Ethics for Public Officers and Employees, Chapter 112, Part III, Florida Statutes
Division of Research Procedure #2370.005(a), Ethics in Purchasing for Research and Intellectual Property Contracts under Florida Law
Florida International University Regulation, FIU-2201, Purchasing
Florida Board of Governors Student Loan Practices Code of Conduct
Florida International University Student Loan Practices Code of Conduct

DEFINITIONS (R*)
1. Gift

“Gift” means anything accepted by an employee, by another person on the employee’s behalf, or in trust for the employee’s benefit, or paid directly or given to the employee when equal or greater payment is not given within 90 days of receipt including, without limitation:
   a) Real property.
   b) The use of real property.
   c) Tangible or intangible personal property or the use thereof.
   d) A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin.
   e) Forgiveness of indebtedness.
   f) Transportation, other than that provided to a public officer or employee by an agency in relation to officially approved governmental business, lodging, or parking.
   g) Food or beverage.
   h) Membership dues.
   i) Entrance fees, admission fees, or tickets to events, performances, or facilities.
   j) Plants, flowers, or floral arrangements.
   k) Services provided by persons pursuant to a professional license or certificate.
   l) Other personal services for which a fee is normally charged by the person providing the services.
   m) Any other similar service or thing having an attributable value not already provided for above.

“Gift” DOES NOT include:
   a) Salary, benefits, services, fees, commissions, gifts, or expenses that an individual receives associated primarily with his or her own employment or business, or service that the individual provides as an officer or director of a corporation or organization.
   b) Contributions or expenditures reported pursuant to chapter 106, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party.
c) An honorarium or an expense related to an honorarium event paid to a person or a person’s spouse.

d) An award, plaque, certificate, or similar personalized item given in recognition of the employee’s public, civic, charitable, or professional service.

e) An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization.

f) The use of a public facility or public property, made available by a governmental agency, for a public purpose.

g) Transportation provided to a public officer or employee by an agency in relation to officially approved governmental business.

h) Gifts provided directly or indirectly by a state, regional, or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials or employees, and whose membership is primarily composed of elected or appointed public officials or staff, to members of that organization or officials or staff of a governmental agency that is a member of that organization.

i) Gifts received from relatives.

2. Lobbyist

“Lobbyist” is defined as a person “who, for compensation, seeks, or sought during the preceding 12 months, to influence the governmental decision-making of a reporting individual or procurement employee or his or her agency or seeks, or sought during the preceding 12 months, to encourage the passage, defeat, or modification of any proposal or recommendation by the reporting individual or procurement employee or his or her agency.” The word “lobbyist” also includes the employer, firm, partner or principal of a lobbyist, a political committee or committee of continuous existence. Persons include “individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.”

3. Political Committee

Political committee is defined as two or more individuals, or a person other than an individual, that, in an aggregate amount in excess of $500 during a single calendar year accepts contributions, or makes contributions to a common fund, for the purpose of making contributions to any candidate, political committee, affiliate party committee, or political party; accepts contributions or makes expenditures for the purpose of expressly advocating the election or defeat of a candidate, or the passage or defeat of an issue; or the sponsor of a proposed constitutional amendment by initiative who intends to seek the signatures of registered electors (as more clearly defined in Fla. Stat. §106.011).

4. Procurement Employee

“Procurement employee” is a state employee who has participated in the preceding 12 months through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities, if the cost of such services or commodities exceeds $10,000 in any fiscal year. The category of procurement employee is considerably broader than that of reporting individuals. It includes employees who have any part in making decisions concerning a purchase or the auditing or investigation of the purchase. For example, a faculty member or administrator who recommends that a certain piece of equipment be purchased may be considered a procurement employee although that person might not otherwise be considered a reporting individual (see below). Any Florida International University employee authorized to make purchases in excess of $10,000 using the University’s P-Card in any given fiscal year is a procurement employee. A P-Card holder authorized to make purchases of $15,000 or more is a reporting individual (see below). Procurement employees must comply with the restrictions and requirements concerning gifts set forth in this policy statement.

5. Reporting Individual

“Reporting individual” is an individual who is required by law to file a disclosure of his/her financial interests to the Florida Commission on Ethics pursuant to the requirements of Section 112.3145, Florida Statutes. University employees who are reporting individuals include: purchasing agents (persons with signature authority for contracts, regardless of their title) having the power to make any purchases exceeding the threshold for Category One purchase (currently $15,000), finance and accounting directors, business managers, personnel officials, grant coordinators, legal counsel, the president, the provost and vice presidents of the university, and members of the board of trustees. Those persons identified by the university as reporting individuals should receive an annual financial interest’s disclosure form from the Commission on Ethics that must be submitted by July 1 of each year. In addition to making that disclosure, reporting individuals are required to comply with the restrictions and requirements concerning gifts set forth in this policy statement.
6. Vendor

“Vendor” is defined as a business entity doing business directly with the University, such as renting, leasing, or selling any realty, goods, or services.

7. Lending Institution

“Lending Institution” is defined as any entity (other than an institution of higher education or a governmental entity such as the U.S. or Florida Department of Education) involved in the making, holding, consolidating or processing of any student loans.

PROCEDURES (O*)

All University employees are urged to contact the University Compliance Officer, who has been designated as the University’s Ethics Officer, for guidance regarding the Code’s applicability to a specific situation.

RESPONSIBILITIES (O*)

Please note that under Florida law, violations of the Code, in addition to any criminal penalty or other civil penalty involved, constitutes grounds for, and may be punished by, one or more of the following:

a. Impeachment (for public officers)
b. Removal from office (for public officers)
c. Dismissal from employment
d. Demotion, suspension, reduction in salary level
e. Civil penalty in an amount not to exceed $10,000
f. Restitution of any pecuniary benefits received
g. Public censure and reprimand

HISTORY (R*)

Effective Date: August 3, 2009. Revision Date(s): February 11, 2015.

RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT (R*)

Office of Finance & Administration
Florida International University

RESPONSIBLE ADMINISTRATIVE OVERSIGHT (R*)

Office of University Compliance and Integrity
11200 S.W. Eighth Street - PC 429
Miami, Florida 33199
Telephone Number: (305) 348-2216

The University Policies and Procedures Library is updated regularly. In order to ensure a printed copy of this document is current, please access it online at http://policies.fiu.edu/.

For any questions or comments, the “Document Details” view for this policy online provides complete contact information.

FORMS/ONLINE PROCESSES (O*)

Florida International University Regulation, FIU-2201, Purchasing
Florida International University Student Loan Practices Code of Conduct

Links to the above referenced Form(s) available in the “Document Details” Section of the online version of this policy document.

*R = Required    *O = Optional