

## OBERLIN COLLEGE

Policy: **Procurement Policy for Government Grant Funded Purchases**

Effective: July 1,2019

Source: VPFB

Purpose: The purpose of this policy is to ensure that goods and services purchased for government grants comply with policies of both the grantor agency and Oberlin College.

### 1. **Scope**

This policy applies to Principal Investigators (Pis), Project Directors and any designees (“buyer”) who make purchases using government grants. **This policy is not applicable to the general purchases of the College.** It is strongly recommended that Pis familiarize themselves with these requirements in advance of any expenditure.

### 2. **Responsibility**

The buyer is responsible for determining whether a purchase is allowable and necessary under the terms of the government grant and will ensure purchases are in accordance with this policy. The Controller’s Office will serve as the final repository for purchase transaction records for government grants.

### 3. **Code of Conduct**

As representatives of the College, all employees (faculty and staff) are expected to conduct themselves in a professional and ethical manner, maintaining high standards of integrity, using good judgment, and complying with the College’s Conflict of Interest Policy for Government Grants. Employees are expected to be principled in their business interactions and act in good faith with individuals both inside and outside the campus community.

### 4. **Conflict of Interest**

- a. Exhibit A - Financial Conflict of Interest, PHS (Faculty and Pis)
- b. Exhibit B - Financial Conflict of Interest, Non-PHS (Faculty and Pis)
- c. Exhibit C - Conflict of Interest Policy for Board Members and Senior Administrators
- d. Additionally, all vendors are required to provide a Conflict of Interest Statement as part of their proposal response in the bidding process.

### 5. **Overview**

To promote compliance with government regulations, the College requires buyers to perform a cost and pricing analysis, which shall be documented in the procurement files in connection with every procurement action. Price analysis may be done in various ways, including comparison of price quotations submitted, market prices, discounts, etc. Buyers shall avoid purchasing unnecessary or duplicative items. All vendor bids and quotations must be evaluated on the basis of product quality, technical compliance with specifications, total cost, and the vendor’s acceptance of the College’s terms and conditions. The vendor selection process for goods and services valued at \$5,000\_or greater

must be documented and stored as part of the transaction record. All prequalified lists of persons, firms, or products which are used in acquiring goods and services should be current and include enough qualified sources to ensure maximum open and free competition. The College will not preclude potential bidders from qualifying during the solicitation period.

The procurement process must comply with policies of both Oberlin College and the grantor agency. When policies disagree, the most restrictive take precedence.

## **6. Vendor Selection and Bidding Requirements**

Buyers should consider the following before making a vendor selection:

- a. Does the vendor provide the best mix of quality, service and price for the specified need? Government regulations require that the lowest price have priority, unless quality, service or delivery time takes priority as to need.
- b. Does the vendor qualify as a small, disadvantaged, minority or women-owned business? Qualifying vendors should be given preference to the extent practical and economically feasible. Affirmative steps to be considered during the bidding phase include:
  - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
  - v. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
  - vi. Requiring the prime contractor, if subcontractors are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.
- c. Does the vendor have a conflict of interest with anyone connected with the grant in accordance with Oberlin College's policy on Conflict of Interest as described in Section 4 of this document?

The level of bidding required and bid documentation to be submitted to the Procurement Office and approved by the Business Office, is determined by the dollar amount of the purchase. The type of procuring instruments used shall be determined by the College but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved.

All procurement transactions shall be conducted to the maximum extent practical, in a manner providing full and open competition. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality, and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order to be evaluated by the College. The College shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference.

	<b>Purchases &lt;\$5,000</b>	<b>Between \$5,000 and \$10,000</b>	<b>&gt; \$10,000</b>
Formal bid process required?*	No	Yes	Yes
Acceptable forms of bids	N/A	verbal, published catalogues, written	written only
Minimum number of bids required	N/A	3	3
Submit bid documentation to the Purchasing Office	No	Yes	Yes
Complete a Vendor Selection Form	not required	Yes	Yes
Analyze lease vs. buy options	not required	not required	Yes

**7. Micro-purchases**

Micro-purchases are the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (\$5,000 according to College policy supported by 41 USC 1902, \$2,000 in the case of acquisitions for construction subject to the Davis Bacon Act). Formal documentation of vendor selection is not required. Buyers are expected to conduct an informal cost/price analysis and select the vendor offering the best mix of quality, service and price for the specified need. Reasonable efforts shall be made to ensure fair and competitive pricing. To the extent practicable, the College shall distribute micro-purchases equitably among qualified suppliers. Securing a price comparison, however, shall be strongly encouraged when beneficial to the College.

**8. Small Purchases**

Solicitations for goods and services shall provide the following:

- a. A clear and accurate description of the technical requirements for the material, product, or service desired. The description shall not be designed to limit competitive solicitation from multiple vendors.
- b. Requirements that the bidder must fulfill and all other factors to be used in evaluating bids and proposals.
- c. A detailed statement describing the source of the funds (Federal, State of Ohio, awarding agency, pass-through information, grant identification number).
- d. A description of the technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
- e. The specific features of "brand name or equal" descriptions that bidders are required to meet.
- f. To the extent practical, that products and service be dimensioned in the metric system of measurement.
- g. Preference, to the extent practical and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

**For purchases from \$5,000 to \$10,000**

A minimum of three (3) bids, written or verbal, are required. Each vendor must be provided with the same precise and accurate description of the specifications and technical requirements for the item or service. Web price lists and catalogue listings can be considered verbal bids.

Buyers must complete a **Vendor Selection Form**. A copy of the completed form must be attached to the selected vendor's invoice and submitted to the Controller's Office for payment. The College shall

document the technical evaluations of the proposals received, including the basis for the award cost or price, any justification for lack of competition when competitive bids or offers are not obtained, and the selection of recipients, and basis therein, in written form.

**For purchases \$10,000 and over**

A minimum of three (3) **written** bids are required. Each vendor must be provided with the same precise and accurate description of the specifications and technical requirements for the item or service. Written bids may be received by mail, fax or email and should be signed/e-mailed by an authorized representative of the vendor. See Competitive Bids below.

Buyers must complete a **Vendor Selection Form**. A copy of the completed form and all written bids must be attached to the selected vendor's invoice and submitted to the Controller's Office for payment. The College shall document the technical evaluations of the proposals received, including the basis for the award cost or price, any justification for lack of competition when competitive bids or offers are not obtained, and the selection of recipients, and basis therein, in written form.

When lease options are available, an analysis of the lease versus buy option must be performed to determine which alternative would be the most economical and practical form of procurement. The Controller will assist buyers with a lease/buy analysis upon request.

**9. Sealed Bids**

Sealed Bids are solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder, whose bid conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the following conditions apply:

- a. A complete, adequate, and realistic specification or purchase description is available;
- b. Two or more responsible bidders are willing and able to compete effectively for the business; and
- c. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- a. Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening bids;
- b. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- c. All bids will be opened at the time and place prescribed in the invitation for bids;
- d. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- e. Any or all bids may be rejected if there is a sound documented reason.

**10. Competitive Bids**

Competitive Bids are normally conducted with more than one source submitting an offer, and either a fixed price or cost reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. For competitive bids, the following requirements apply:

- a. Requests for proposals must be developed and identify all evaluation factors and their relative

- importance;
- b. Proposals must be solicited from an adequate number of qualified sources;
- c. The College shall document all technical evaluations of the proposals received and for selecting recipients;
- d. Contract shall be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- e. The College may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services.

## 11. Non-Competitive Vendor Selection

Occasionally, a PI is unable or chooses not to competitively bid the requirements. These situations are characterized as sole or single source transactions.

*Sole Source:* No other vendor capable of fully meeting the requirements exists.

*Single Source:* Alternative vendors exist in the competitive market, but the buyer chooses to solicit a bid from only one particular vendor because of technical requirements (precision, reliability) or past performance by other vendors (poor service, availability of parts).

*Emergency Procurement:* In the case that the requirement of a product or service does not permit a delay resulting from competitive solicitation, an emergency procurement may be necessary. At the next reasonable opportunity, the standard paperwork should be submitted to the Office of Procurement.

PI should seek approval from the granting agency prior to making a sole or single source purchase. In addition, the PI must complete the **Vendor Selection Form** if the purchase is \$5,000 or greater, and written documentation should be maintained in the procurement files providing the justification for the sole or single source selection.

## 12. Contract Administration

- a. The College shall evaluate contractor conformance with the terms, conditions, and specifications of the contract to ensure adequate and timely follow-up of all purchases and document whether contractors have met the terms, conditions, and specifications of the contract.
- b. Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.
- c. The College shall perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold (\$150,000) including contract modifications.
- d. The College must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed.
- e. Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimated included in negotiated prices would be

- allowable for the non-Federal entity under 2 CFR 200, Subpart E.
- f. Contracts in excess of the Simplified Acquisition Threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.
  - g. All contracts in excess of \$10,000 shall contain suitable provisions for termination, including the manner by which termination shall be affected and the basis for the settlement. The contract will also state under which conditions the contract may be terminated for default as well as conditions where it may be terminated because of circumstances beyond control of the contractor.
  - h. The “cost-plus-a-percentage-of-cost” or “percentage of construction cost” methods of contracting shall not be used.
  - i. Except as otherwise required by statute, an award that requires the contracting/subcontracting for construction of facility improvements shall follow the College’s requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract/subcontract exceeds \$100,000. The Federal awarding agency may accept the policy/requirements of the College in contracts exceeding \$100,000 if a determination has been made that the Federal Government’s interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:
    - i. A bid guarantee from each bidder equivalent to five percent of the bid price.
    - ii. A performance bond on the part of the contractor for 100 percent of the contract price.
    - iii. A payment bond on the part of the contractor for 100 percent of the contract price.

### 13. **Contract Provisions**

**When entering into a contract or subcontract, the College shall include provisions to define a sound and complete agreement. The following provisions will also apply:**

- a. **Debarment and Suspension** (Executive Orders 12549 and 12698) - Federal Executive Orders 12549 and 12689 prohibit sub-awards, contracts and purchase orders with certain parties who are debarred, suspended, or proposed for debarment, unless there is a compelling reason to do so. Federal agencies have issued regulations regarding the implementation of these Orders, and it is the responsibility of each Buyer to understand and follow the regulations of the grantor agency. Buyers shall use the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion when requesting bids for purchases in excess of the grantor’s small purchase threshold (generally \$25,000). The Excluded Parties List System (EPLS) in the System for Award Management (SAM) must be checked before issuing a purchase order or contract for amounts in excess of the grantor’s small purchase threshold. (The small purchase threshold applies to an entire contract, not to separate invoice amounts.) The signed certification or printed results from the EPLS must be attached to the vendor’s invoice when it is submitted to Accounts Payable. Any transaction proposed with an entity or individual that is debarred, suspended, or proposed for debarment must be approved in advance by the grantor.
- b. **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity.”
- c. **Davis-Bacon Act**, as amended (40 U.S.C. 3141-3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted

Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The College must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The College must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145). As supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors in Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that every contractor or sub-recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The College must report all suspected or reported violations to the Federal awarding agency.

- d. Contract Work Hours and Safety Standards Act** (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics and laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- f. Clean Air Act** (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and sub-grants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**g. Byrd Anti-Lobbying Amendment** (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of an agency, a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non- Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Please contact the Office of Procurement or the Controller with questions.

**Oberlin College**  
**Financial Conflict of Interest Policy for Sponsored Research**

Effective: August 24, 2012  
Revised: September 14, 2012

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## I. Introduction

This policy on financial conflicts of interest for sponsored research was designed for applicants seeking research funding through the Department of Health and Human Services (HHS), Public Health Service (PHS), National Institutes of Health (NIH), and National Science Foundation (NSF). This policy implements the requirements The Department of Health and Human Services ruling in the Federal Register that amends the Public Health Service (PHS) regulations on Responsibility of Applicants for Promoting Objectivity in Research for which PHS Funding is Sought (42 C.F.R. Part 50) and Responsible Prospective Contractors (45 C.F.R. Part 94). Where there are substantive differences between this policy and the requirements, the requirements shall take precedence.

This policy applies to all Investigators on PHS-funded (including NIH-funded) or NSF-funded research of Oberlin College. The Dean of the College of Arts and Sciences, or his/her designee, is responsible for ensuring implementation of this policy and may suspend all relevant activities until the financial conflict of interest has been resolved or other action deemed appropriate has been implemented. Violation of any part of this policy may also constitute cause for disciplinary or other administrative action pursuant to Oberlin College policy.

Oberlin College is committed to ensuring that sponsored research is free from the bias created by a financial conflict of interest held by an Investigator or subawardee and from the appearance of a bias resulting from a financial conflict of interest held by an Investigator or subawardee. To that end, the College will undertake efforts to identify significant financial interests held by investigators that may relate to PHS-funded (including NIH-funded) or NSF-funded research and to determine whether or not those significant financial interests constitute a financial conflict of interest. The College recognizes that Investigators and members of their family may hold significant financial interests related in some measure to federally-sponsored research, and such interests must be disclosed to the College to ensure that the research is not in any form biased by the presence of these interests. Oberlin College will manage financial conflicts of interest that exist by taking action, which may include reducing or eliminating the financial conflict of interest, to ensure, to the extent possible, that the design, conduct, and reporting of research will be free from bias.

## II. Definitions

*Family* means any member of the Investigator's immediate family, including spouse, domestic partner, and dependent children.

*Financial Conflict of Interest* means a significant financial interest that could directly and significantly affect the design, conduct, or reporting of sponsored research.

*Financial Interest* means anything of monetary value received or held by an Investigator or an Investigator's family, whether or not the value is readily ascertainable, including, but not limited to: salary or other payments for services (e.g. consulting fees, honoraria, or paid authorships for other than scholarly works); any equity interests (e.g., stocks, stock options, or other ownership interests); and intellectual property rights and interests (e.g., patents, trademarks, service marks, and copyrights), upon receipt of royalties or other income related to such intellectual property rights and interests.

*Institutional Official* means the Dean of the College of Arts and Sciences or his/her designee.

*Institutional Responsibilities* means an Investigator's professional responsibilities on behalf of Oberlin College, and as defined by Oberlin College in its financial conflict of interest policy for sponsored research, which may include for example: activities such as research, research consultation, teaching, professional practice, institutional committee memberships, and service on panels such as the Institutional Review Board.

*Investigator* means the project director or principal Investigator and any other person, regardless of title or position, who is responsible for the design, conduct, or reporting of sponsored research, or proposed for such funding, which may include, for example, collaborators or consultants.

*PI/PD* means a principal investigator or project director of a PHS-, NIH-, or NSF-funded research project.

*Research* means a systematic investigation, study or experiment designed to develop or contribute to generalizable knowledge relating broadly to public health, including behavioral and social-sciences research. The term encompasses basic and applied research (e.g., a published article, book or book chapter) and product development (e.g., a diagnostic test or drug).

*Significant Financial Interest* means anything of monetary value held or received by the Investigator or the Investigator's family that reasonably appears to be related to the Investigator's institutional responsibilities, including but not limited to the following:

- a) if with a publicly traded entity, the aggregate of any salary or other payments for services received during the 12 month period preceding the disclosure, and the value of any equity interest during the 12 month period preceding or as of the date of disclosure, exceeds \$5,000; or
- b) if with a non-publicly traded entity, the aggregate value of any salary or other payments for services received during the 12 month period preceding the disclosure exceeds \$5,000; or
- c) if with a non-publicly traded entity, an equity interest of any value during the 12 month period preceding the or as of the date of disclosure; or
- d) reimbursed travel or sponsored travel (i.e., that which is paid on behalf of the Investigator and not reimbursed to the Investigator so that the exact monetary value may not be readily available); or
- a) intellectual property rights (e.g., patents, copyrights, and trademarks) and royalties or income from such rights.

Significant Financial Interest does **NOT** include:

- a) salary, royalties, or other remuneration paid by Oberlin College to the Investigator if the Investigator is currently employed or otherwise appointed by the College,
- b) income from seminars, lectures, teaching engagements sponsored by, or service on advisory committees or review panels for, government agencies, institutions of higher education, an academic teaching hospital, a medical center, or a research institute that is affiliated with an Institution of higher education;
- c) income from investment vehicles, such as mutual funds and retirement accounts, as long as the Investigator does not directly control the investment decisions made in these vehicles;
- d) intellectual property rights assigned to Oberlin College and agreements to share in royalties related to such rights; or
- e) travel that is reimbursed or sponsored by a governmental agency, an Institution of higher education, an academic teaching hospital, a medical center, or a research institute that is affiliated with an Institution of higher education.

### **III. Investigator Obligations - Disclosure of Financial Interests**

All Investigators applying for or holding active PHS, NIH and NSF awards are required to receive financial conflict of interest training, as detailed in Section V of this policy. Investigators are also required to disclose to Oberlin College all significant financial interests, including those of the Investigator and the Investigator's family, that would reasonably appear to be affected by the research and that are in or from entities whose financial interests would reasonably appear to be affected by the research.

Investigators must complete the Oberlin College Disclosure of Significant Financial Interest and submit it to the Office of Sponsored Programs at least three weeks prior to the submission of an application to PHS, NIH or NSF. If awarded, Investigators must submit an updated disclosure form before any federal funds are expended and annually on or before January 15 throughout the term of the award. In addition, updated disclosures must be submitted to the Office of Sponsored Programs within 30 days of the Investigator or the members of the Investigator's family discovering or acquiring Significant Financial Interest during the course of the year, such as through inheritance, purchase, marriage or reimbursed or sponsored travel. Investigators new to Oberlin College with active PHS, NIH or NSF grants, cooperative agreements or contracts must submit an initial disclosure form within 30 days of initial appointment or employment, before the expenditure of any funds, and annually on or before January 15 throughout the period of the award.

In the event of a significant financial conflict of interest, Investigators agree to cooperate in the development of a plan to resolve any conflicts of interest, and to comply with conditions or restrictions imposed by Oberlin to manage, reduce, or eliminate actual or potential conflicts of interest or forfeit the award, as detailed in Sections VII and VIII of this policy.

#### **IV. Subrecipients**

Any subaward or subcontract through a PHS (including NIH) or NSF grant, cooperative agreement or contract to Oberlin College is subject to Oberlin College's Financial Conflict of Interest Policy for Sponsored Research and requirement for financial conflict of interest training. All Investigators at subrecipient or subcontract entities must complete the Oberlin College Disclosure of Significant Financial Interest for Sponsored Research form at least three weeks prior to the submission of an application for funding, before the expenditure of any federal funds, and annually on or before January 15 throughout the term of the award. In addition, updated disclosures must be submitted to the Office of Sponsored Programs within 30 days of the Investigator or the members of the Investigator's family discovering or acquiring Significant Financial Interest during the course of the year, such as through inheritance, purchase, marriage or reimbursed or sponsored travel.

Language will be incorporated into written agreements with subrecipients indicating that they are required to comply with applicable federal regulations and the terms of Oberlin College's Financial Conflict of Interest Policy for Sponsored Research, including the submission of Oberlin's Disclosure of Financial Interest form on the schedule set forth in this policy. Oberlin will provide Financial Conflict of Interest reports to PHS, NIH, or NSF regarding all financial conflicts of interest of all subrecipient Investigators prior to the expenditure of funds and within 60 days of any subsequently identified financial conflict of interest.

#### **V. Training**

All Investigators at Oberlin College and at subrecipient or subcontract entities are required to complete financial conflict of interest training prior to engaging in research related to a PHS-funded (including NIH-funded) grant, cooperative agreement, or contract, and at least every four years, and immediately if: (a) Oberlin College revises its Financial Conflict of Interest policy in a way that affects the requirement of Investigators; (b) an Investigator is new to Oberlin College; or (c) Oberlin College finds that an Investigator is not in compliance with the College's financial conflict of interest policy or management plans. Training is not currently required for Investigators applying for or holding active NSF grants, cooperative agreements, or contracts.

#### **VI. Institutional Review and Obligations**

Oberlin College will maintain an up-to-date policy on financial conflicts of interest, the Oberlin College Financial Conflict of Interest Policy for Sponsored Research, and make a copy of the policy available on the Oberlin College website. The Office of Sponsored Programs will inform Investigators about the policy, the Investigator's responsibilities and obligations regarding disclosure of significant financial interests, and required training for Investigators seeking or holding PHS or NIH funding. When PHS-funded (including NIH-funded) or NSF-funded research is carried out by a subrecipient, Oberlin College will take reasonable steps, as specified in Section IV of this policy, to ensure that any subrecipient Investigator complies with federal regulations and the Oberlin College Financial Conflict of Interest Policy for Sponsored Research. Oberlin College will take actions as necessary to manage financial conflicts of interest including any financial conflicts of a subrecipient Investigator. The College will report financial conflicts of interest or non-compliance to the sponsoring agency, in accordance with federal regulations. All records related to Investigator disclosures of financial interest will be retained for at least four years from the end of the grant, cooperative agreement or contract. Oberlin will enforce adequate enforcement mechanisms and provide for employee sanctions or other administrative actions to ensure Investigator compliance as appropriate. In each PHS or NIH application submitted for funding, Oberlin will certify its compliance with applicable federal regulations. In accordance with federal regulations, Oberlin College will make information about Investigator disclosure of financial interest and review, determination, and enforcement available to the funding agency, upon request.

## **VII. Managing Conflicts of Interest**

A financial conflict of interest exists when Oberlin College, through the designated official(s), reasonably determines that the significant financial interest could directly and significantly affect the design, conduct, or reporting of the research.

In the event that a Financial Conflict of Interest is identified, the Dean of the College of Arts and Sciences will be responsible for developing and implementing a management plan to ensure that the significant financial interest does not affect the conduct, design, or reporting of PHS-funded (including NIH-funded) or NSF-funded research. Such plans will be designed to meet applicable legal requirements, facilitate the local resolution or management of any conflict, and protect the sensitivity of disclosed information. Management Plans may include one or more elements, such as the following: (a) modifications to the research or program plan, (b) public disclosure of financial conflicts of interest (e.g., when presenting or publishing the research), (c) independent monitoring of the sponsored program, (d) change of personnel or personnel responsibilities, (e) reduction or elimination of Significant Financial Interests, and/or (f) other arrangements that manage, reduce, or eliminate a potential Financial Conflict of Interest. A written management plan must be in place before any related research goes forward. The Investigator must formally agree to the proposed management strategies and sign the written management plan before any sponsored research proceeds.

Whenever the Institutional Official determines that a Financial Conflict of Interest was not identified or managed in a timely manner, including but not limited to an Investigator's failure to disclose a Significant Financial Interest or an Investigator's failure to materially comply with a management plan for a Financial Conflict of Interest, the Institutional Official will within 60 days review the Significant Financial Interest; determine whether it is related to PHS- or NIH- funded research; and determine whether a financial conflict of interest exists. In cases where a financial conflict of interest exists, the Institutional Official will implement an interim management plan specifying actions that have been and will be taken to manage the financial conflict of interest going forward. In addition, within 120 days of determination of noncompliance, the Institutional Official will complete and document a retrospective review of the Investigator's activities and the research project to determine whether the research conducted during the period of non-compliance was biased in the design, conduct or reporting of the research. Based on the results of the retrospective review, if appropriate, Oberlin will update previously submitted financial conflict of interest reports, specifying the actions that will be taken to manage the financial conflict of interest going forward. If bias is found, Oberlin will submit a mitigation report to the awarding agency.

## **VIII. Violation of Conflict of Interest Policy**

In the event of an Investigator's failure to comply with this Policy, the Institutional Official may suspend all relevant activities or take other disciplinary action until the matter is resolved or other action deemed appropriate by the Institutional Official is implemented. The Institutional Official's decision to impose sanctions on an Investigator because of failure to comply with this Policy, or failure to comply with the decision of the Institutional Official, will be described in a written explanation of the decision to the Investigator, and, where applicable, to the Institutional Review Board, and will notify the individual of the right to appeal the decision. Oberlin College will also notify the awarding organization of the action to be taken.

## **IX. Reporting**

The Institutional Official will report conflicts of interest or non-compliance to the funding agency in accordance with federal regulations. In cases of a retrospective review, the Institutional Official will update any previously submitted report to the funding agency, specifying the actions that will be taken to manage the Financial Conflict of Interest going forward. If bias by the investigator is found, the report will include a mitigation report in accordance with the applicable regulations, including a description of the impact of the bias on the research project and the plan of action to eliminate or mitigate the effect of the bias. If the research funding is through a subaward to Oberlin College, reports will be made to the prime awardee prior to the expenditure of any funds and within 60 days of any subsequently identified financial conflicts of interest.

## **X. Record Retention**

Oberlin College will retain all documents related to disclosures of financial interest and financial conflicts of interest for submitted and awarded grants, cooperative agreements and contracts for a period of at least four years from the end date of the grant, cooperative agreement or contract. Copies of the documentation will be retained in the offices of Sponsored Programs and the Dean of the College of Arts and Sciences.

## **XI. Public Accessibility**

Prior to the expenditure of funds, Oberlin College will publish on a publicly accessible website information concerning any significant financial interest that meets the following criteria:

- a) the Significant Financial Interest was disclosed and is still held by the senior and key personnel;
- b) a determination has been made that the SFI is related to the PHS- or NIH-funded research; and
- c) a determination has been made that the SFI is a Financial Conflict of Interest.

## **OBERLIN COLLEGE CONFLICT OF INTEREST POLICY**

### **Purpose:**

The purpose of this policy is to identify and manage actual, apparent, or potential conflicts of interest through transparent and appropriate disclosure and approval procedures; to protect the College's financial integrity; and to ensure that the College's assets are used in a manner consistent with its tax-exempt status. This policy defines broad categories of situations to be disclosed by Community Members so that actual conflicts can be identified and addressed on a case-by-case basis.

### **Scope:**

This policy applies to Community Members as defined below.

### **Definitions:**

*Community Members'*. This term refers to all members of the Oberlin College Board of Trustees; senior staff members of the College; all staff members of the College's Investment Office; the Associate Vice President for Finance; the Controller; and any other College employees or other individuals whom the Board of Trustees may designate from time to time as Community Members.

*Endowment'*. This term refers to Oberlin College's General Investment Pool.

*Family Members'*. This term refers to spouses and domestic partners; and parents, siblings, children, grandchildren, great-grandchildren, and their respective spouses and domestic partners.

*Material Financial Interest'*: This term refers to a financial interest of a Community Member or the Family Member of a Community Member of any kind that, in view of all the circumstances, is substantial enough that it would, or reasonably could, affect the judgment of a Community Member with respect to a transaction to which the College (including its Endowment) is a party. This term includes, but is not limited to, the following: any ownership interest in a business or investment entity; any investment interest in a business or investment entity of greater than 5%; and all forms of compensation as an officer, director, trustee, consultant, employee, or member of a business or investment entity.

### **Conflicts of Interest:**

An actual, apparent, or potential conflict of interest may arise when the interests, activities, or relationships of a Community Member or the Community Member's Family Member(s) compete or are perceived to compete with the interests, activities, or concerns of the College, such that the Community Member's decisions on behalf of the College are compromised or appear to be compromised. Although it is impossible to describe all situations raising the possibility that such a conflict of interest may be present, Community Members are required to make a disclosure in the following non-exhaustive list of situations, based on the premise that the resulting review may reveal no conflict.

1. the holding of a Material Financial Interest by a Community Member in an entity with which the

College has or is considering a transaction or business arrangement, including but not limited to a contract for services with such an entity, an investment by the Endowment with such an entity, and the acceptance of a gift by the College that entails an investment in such an entity;

2. a Community Member's service, whether or not compensated, in any governing body of an entity with which the College has or is considering a transaction or business arrangement, including but not limited to a contract for services with such an entity, an investment by the Endowment with such an entity, and the acceptance of a gift by the College that entails an investment in such an entity;
3. a Community Member's use of information received or knowledge learned as a result of the Community Member's service to the College, in a way that benefits the Community Member and could disadvantage the College by diverting an opportunity away from the College or otherwise;
4. a Community Member's participation in any business activity that competes with the College, such as service in any governing body of any post-secondary institution apart from the College;
5. a Community Member's acceptance of significant gifts, benefits, services, or entertainment from any individual or entity that does or is seeking to do business with the College; is a competitor of the College; or has received, is receiving, or is seeking to receive a loan, grant, or other financial commitments from the College, under circumstances where it might be inferred that such action was intended to influence or possibly would influence the Community Member in the performance of his or her duties.

The fact that a Community Member may invest or has invested in a professionally managed investment opportunity in which the College has invested or may invest would not normally constitute a conflict of interest where (1) such parallel investment is disclosed by the Community Member; (2) the Community Member is not a member of the Investment Committee; (3) neither the College nor the Community Member owns or will own more than 5% of such investment; (4) the co-investment by the College is of no material benefit to the Community Member; and (5) the investment by the Community Member is of no material detriment to the College.

A situation that would create an actual, apparent, or potential conflict of interest if a Community Member is involved will also create an actual, apparent, or potential conflict of interest if a Family Member of a Community Member is involved and must, therefore, be disclosed in accordance with this policy.

### **Disclosure and Management of Conflicts of Interest:**

*Disclosure of Conflicts of Interest.* Community Members are required to disclose actual, apparent, and potential conflicts of interest in two ways. First, Community Members must complete a Disclosure Certificate when first becoming Community Members and upon an annual basis thereafter. Community Members shall also update the Certificate as necessary when the information reported on the Certificate changes during any given year. The Certificate shall be submitted to the General Counsel and Secretary and shall be maintained as confidential with the exceptions noted below. Second, a Community Member who becomes aware of an actual, apparent, or potential conflict of interest based on a discussion or action item that is scheduled for review or is currently under review by the College or the Board of Trustees or its Investment Committee shall immediately recuse himself or herself from participation in any such review of the item, including but not limited to absenting himself or herself from discussions,

presentations, or other involvement, whether in person or by telephone, electronic or regular mail, or other medium of communication, and shall disclose to the General Counsel and Secretary of the College the nature of any such actual, apparent, or potential conflict of interest. (Thus, for example, the Community Member shall not be present while the item is being discussed at a meeting and shall not be on the telephone line if the discussion occurs during a telephone call.) In the instance that the Community Member with the actual, apparent, or potential conflict is the General Counsel and Secretary, the General Counsel and Secretary shall disclose the actual, apparent, or potential conflict to the Controller.

*Management of Conflicts of Interest.* After receiving information about an actual, apparent, or potential conflict of interest through a Disclosure Certificate, a communication from a Community Member, or through any other means, the General Counsel and Secretary of the College (or, in the instance noted above, the Controller) shall timely forward that information to the Chair of the Audit Committee or, should the conflict involve such Chair, to the Vice-Chair of such Committee. After consulting with the Chair of the Board of Trustees and the President - or, should the conflict involve either the Chair or the President, with the Vice-Chair or the Vice President for Finance, respectively - the Audit Committee shall determine whether a conflict of interest exists and, if so, any steps that can be taken to eliminate the conflict. In making this determination, the Committee shall consider the extent to which the Community Member would benefit and the extent to which the College would be disadvantaged financially or otherwise from the situation; the Committee shall also consider the availability to the College of alternatives that would not present a conflict of interest. If a conflict of interest exists and cannot be eliminated, the Community Member must neither vote on the matter involved nor attempt to influence the vote of the decision-making body.

### **Compliance:**

Violation of this Conflict of Interest Policy may result in disciplinary action, up to and including removal as a Community Member, such as but not limited to termination of employment and/or removal from the Board of Trustees. Anyone who believes a Community Member has violated this Conflict of Interest Policy should promptly so advise the General Counsel and Secretary or the Controller, if the alleged violation involves the General Counsel and Secretary.

*(approved by Oberlin College Board of Trustees on June 12, 2010)*