Procedure for Policy 4001
Financial Conflicts of Interests in University Contracts with Businesses under Virginia Law

University Responsibility

The Office of the Vice President for Research and Economic Development, including the Office of Sponsored Programs (OSP) and the Office of Technology Transfer (OTT), is responsible for implementing Policy 4001. This responsibility includes providing advice and technical assistance to employees in the preparation of requests for waivers of conflicts of interests in contracts between the university and businesses for research and development or for the commercialization of intellectual property (collectively referred to in this Procedure as “research or commercialization contracts”).

Employee Consultation and Disclosure

Employees who may have a potential conflict of interests in research or commercialization contracts are encouraged to consult with their immediate supervisors and the Office of the Vice President for Research and Economic Development on conflicts of interests as early as possible. If an employee has a potential conflict, it may be possible to prevent it. If a conflict cannot be prevented, it may be possible to ameliorate or manage it to allow the university to approve a waiver of the conflict. Early consultation facilitates the timely consideration of these possibilities.

In addition, an employee may seek an opinion from the Attorney General, who is authorized to render advisory opinions as to whether the facts in a particular case would constitute a violation of law. If the Attorney General determines that no conflict exists, the employee cannot be prosecuted for a knowing violation of the conflict of interests law. Employees who are considering seeking an Attorney General opinion are encouraged to consult with the Vice President for Research and Economic Development.

If an employee believes he or she may have a personal interest in a proposed contract for research and development that might give rise to a conflict of interests, the employee must disclose the potential conflict to his or her immediate supervisors and to the Office of Sponsored Programs as early as possible. Similarly, in the case of a contract for the commercialization of intellectual property, an employee who believes he or she may have a personal interest in the contract that might give rise to a conflict of interests must disclose the potential conflict to his or
her supervisors and to the Office of Technology Transfer upon learning that the university is negotiating with the business.

Remedies for Potential Conflicts

Conflicts of interests may be prevented, and certain conflicts may be waived.

Prevention of conflicts

If the potential conflict arises solely from the employee’s having more than $10,000 annual income from a business that is contracting with the university, the employee can prevent the conflict by (1) not participating in the business’s contracting process for the contract and having no authority to do so and (2) either having no authority to participate in the university’s contracting process for the contract or publicly disqualifying himself or herself from doing so and not participating in negotiating or approving the contract. In such a case, the employee must submit a letter to the Office of Sponsored Programs stating that he or she meets the requirements for this exception.

Similarly, if the conflict arises from ownership in a contracting business that exceeds three percent of its total equity, the employee can prevent the conflict by disclosing the equity interest in writing to the president and certifying that he or she has not participated and will not participate in contract negotiations for the business or the university, obtaining the president’s public finding that the contract is in the best interests of the university, not having authority to participate in the university’s contracting process or publicly disqualifying himself or herself, and not participating in the university’s negotiating or approving of the contract. The employee must submit a letter to the Office of Sponsored Programs stating that he or she meets the requirements for this exception and requesting the required finding.

It may also be possible to prevent the conflict through the divestiture of financial interests, severance of the relationship that would create the conflict, or delegation of financial interests to trust. Employees who have questions about conflicts of interests may consult the statute or seek legal counsel. The University Counsel is not authorized to provide personal legal counsel to university employees.

Waivers of conflicts

An employee who has a personal interest in a proposed research or commercialization contract that might give rise to a conflict of interests may seek a waiver from the president. A request for a waiver describes the conflict and how it would be managed. In developing the waiver request, the employee should consult with his or her Center Director, Department head, and Dean or Director and, for a research contract, the Office of Sponsored Programs or, for a commercialization contract, the Office of Technology Transfer.
A request for a waiver must include the information posted on the following web site: http://research.gmu.edu/docs/Virginia_Conflict_of_Interests_Waiver_Applications.pdf. The request should be sent to the Director, Office of Sponsored Programs, who will then transmit it to the Conflict of Interest Committee for review. To be recommended for approval, the request must be signed by the requesting employee; the employee’s Center Director, Department head, and Dean or Director; and the Vice President for Research and Economic Development. The signature of each of these reviewing officials reflects the official’s determination that approval of the requested waiver is in the best interests of the university.

After considering the advice of the Conflict of Interest Committee, the Vice President for Research and Economic Development determines whether, and on what conditions, a waiver of a conflict of interests should be recommended to the president and how the employee’s compliance with the conditions for the waiver will be ensured. For a waiver for a period exceeding one year, the Vice President may require that the employee periodically certify continued compliance with those conditions. The employee must agree to the terms of a waiver before it is recommended. If a waiver is recommended, the Office of the Vice President transmits the recommendation for the president’s consideration. At this point in the process the employee must complete an initial Statement of Economic Interests under Va. Code, § 2.2-3106.C.8.(ii) and provide it to the Vice President in a sealed envelope. Until the president has approved the waiver, the university does not enter into the contract that would give rise to a conflict of interests.

If the president approves the waiver, the Office of the Vice President for Research and Economic Development sends a copy of the waiver to the requesting employee and each official who reviewed the request and provides the envelope containing the Statement of Economic Interests to the Office of the President for filing with the Secretary of the Commonwealth. The employee must thereafter file a Statement of Economic Interests by January 15 of each year after the filing of the initial Statement until the earliest of the following occurs: (1) the termination of the contract for research and development or the agreement for the commercialization of intellectual property, as applicable; (2) the termination of the employee’s employment relationship with the university; or (3) the termination of the financial benefit or liability that gave rise to the conflict. The Statement must be filed for each year or part thereof in which the conflict existed.

If the President disapproves the waiver, the Office of the Vice President for Research and Economic Development notifies the requesting employee and each official who approved the request and returns the envelope containing the Statement of Economic Interests unopened to the employee.
Record disclosure and retention

A request for a waiver of a conflict of interests is a public document when it is recommended for approval and transmitted to the president for consideration. Disclosure of such a request is subject to applicable State and Federal law.

The Office of Sponsored Programs maintains a record of actions taken during the review and approval of a waiver for a minimum of three years following the termination of the contract.

Approved:

[Signature]

Roger R. Stough
Vice President for Research and Economic Development

1-20-2010

Date