



The State University
of New York

MEMORANDUM

DATE: December 21, 2012

TO: State University Business Officers

FROM: Kellie Dupuis
Executive Director of Business Operations and Procurement

RE: Project Sunlight

The purpose of this memorandum is to advise campuses of the requirements of an enacted statute and administrative guidelines related to Project Sunlight and to assist in complying with such requirements.

Enacted as part of omnibus ethics legislation (Ch. 399, Part A, §4, L. 2011; excerpt attached), and effective January 1, 2013, the statute establishes a new data base, "Project Sunlight," which aggregates, and makes available to the public, data submitted to the NYS Office of General Services ("OGS") by State entities, including SUNY, concerning individuals and firms who or that appear before such entities with respect to five categories of matters: (1) procurement of State contracts, (2) rate-making, (3) regulatory matters, (4) judicial or quasi-judicial proceedings, or (5) rule-making per the State Administrative Procedures Act. State entities are required to report to OGS appearances by individuals and firms who or that appear before **State decision-makers or persons who advise decision-makers**, on an OGS form, electronically available in an electronic portal. Given the nature of SUNY activities, SUNY is likely to be most impacted in the area of procurement and to a lesser extent in rule-making activities (including rule-making related to tuition and fees) and some activities of the Charter Schools Institute.

The Office of Governor's Counsel has prepared an FAQ that adds substantive clarifications to the statute as follows:

SUNY is required to report appearances by individuals or firms whether they represent themselves or others.

Report an appearance if it is a **substantive interaction**, not ministerial, meant to have an impact on SUNY's decision-making process. The appearance is reported

if before an individual at SUNY who has power to exercise decision-making with respect to the matter, or who advises the decision-maker. Generally, with respect to procurement matters, campus decision-makers include the Vice President for Administration and the Purchasing Agent.

SUNY is required to report appearances that occur in-person, by telephone or by video-conference **BUT is not required to report written contacts by letter, e-mail or fax.**

Contact by elected officials, executive or legislative employees are not reported, **nor are contacts related to legislation or SUNY's budget.**

Employee and student disciplinary matters conducted in-house are not judicial or quasi-judicial proceedings, and SUNY is **NOT** required to report appearances in such proceedings.

SUNY must report an appearance to the OGS database within five (5) days of its occurrence.

With respect to SUNY procurement activities:

- (1) contacts made during the "Restricted Period" as defined in the 2005 procurement lobbying legislation (Ch. 1 L. 2005) are **NOT** reported. As defined in State Finance Law §§139-j and 139-k, the Restricted Period commences with the earliest **WRITTEN** notice, advertisement or solicitation related to a procurement and ends upon final contract award, or approval by the State Comptroller where applicable. As example, a bidders' conference during the Restricted Period is not reportable. However, a contact before the Restricted Period that is a substantive attempt to influence a SUNY decision-maker to purchase a vendor's product, even if unsolicited, **IS a reportable appearance.**
- (2) If SUNY initiates a contact that is purely informational (e.g. market research), reporting is not required.
- (3) If SUNY reaches out to a M/WBE firm to determine interest in or availability to provide goods or services, reporting is **NOT** required.

The OGS reporting form and training materials are available at online. For your information, attached please find the following: Project Sunlight, Substantive Training; Project Sunlight, Technical Training; and a draft document concerning frequently asked questions. Access the OGS database at www.projectsunlight.ny.gov/login. For SUNY campus or System Administration employees, the training module for Project Sunlight is available via SLMS, the new State Learning Management System. Everyone within SUNY can access SLMS by logging in through the SUNY webpage at Suny.edu by clicking on **FACULTY AND STAFF** and then selecting **SUNY SECURE SIGN ON**

and logging in with your campus credentials (use the drop down to select your campus and then enter the credentials). Once logged in, you will select the **E-Business Services** tab, and click on the **SLMS - Statewide Learning Management System** link. This will gain you access to the SLMS and all of the offered courses. Once you are logged into the SLMS System, to find the Project Sunlight course listed on the attached training document, select **All Learning** and then select **Search the Catalog** and type **project sunlight** into the search box. The Project Sunlight course comes up. To complete the module, you must click on the course name that is highlighted to enter the course (**Project Sunlight**), select **Enroll**, then **Submit Enrollment** and then **Launch** and you can complete the module.

Each campus and other operational centers/units (e.g. Charter Schools Institute) should designate one or more individuals who are responsible for entering data in the OGS Project Sunlight database and individuals who should undergo Project Sunlight training. In addition, each campus and operation center/unit should develop procedures to assure that SUNY individuals before whom outside individuals and firms make reportable appearances either complete the OGS form or convey notice of the appearance to the SUNY individual responsible for entering data in the OGS database.

All inquiries should be submitted to projectsunlight@SUNY.edu. Specific legal questions can be directed to SUNY Legal Counsel Office (518) 320-1400. Questions regarding the data base or training may be directed to the Office of Business Operations and Procurement (518) 320-1341.

Cc: Bill Howard
Brian Hutzley
Ralph Rossi
Paul Tucci
Procurement Officers