Project Sunlight & Its Impact on UB

December 2013

What is Project Sunlight

- A component of the Public Integrity Reform Act of 2011
  - Ch. 399, Part A, § 4, L. 2011
- An online database that provides the public with an opportunity to see which entities and individuals are interacting with government decision-makers

What is Project Sunlight

Project Sunlight's public-facing website will aggregate and publish data concerning procurement utilizing State funds with a value of $25,000 or more.
The law also includes the following areas that are not applicable to SUNY campuses:
  - Rate-making,
  - Regulatory matters,
  - Judicial or quasi-judicial proceedings, and
  - Rule-making
Compliance Mandate

As of January 1, 2013, SUNY and its campuses are required to report to Office of General Services (OGS), appearances by individuals or firms that appear before State decision-makers or persons who advise decision-makers on a form available in an electronic portal.

Required UB Action

UB and the SUNY campuses must:
- Designate individual(s) who will be trained in and responsible for entering data in the OGS-Project Sunlight database
- Develop procedures to assure reportable appearances are reported and entered into the OGS Project Sunlight database
- Adopt a Project Sunlight compliance plan

What is an Appearance

An in-person or video-conference contact by a vendor, a vendor’s representative, advocacy organization such as a union or association, or an individual where the intent of the contact is to influence the decision to procure real property, goods or services with a value or potential value of $25,000 or more.
Who must report under Project Sunlight

Campus decision-makers include, but are not limited to:
- President
- Vice Presidents
- Director of Procurement
- Procurement Services Buyers
- Decision-makers in the following units:
  - CIO
  - Facilities
  - Athletics
  - University Life and Services
  - Academic and research departments

What must be reported

Under the law, appearances dealing with the procurement utilizing State funds that could result in the purchase of $25,000 or more in real property, goods and/or services, including land, must be reported to the GGS Project Sunlight database within 5 business days of the appearance.

What appearances are exempt

Appearances by the following are categorically exempt from Project Sunlight reporting requirements:
- State and local agencies and authorities, including tribal governments and federal government representatives
- Elected officials
- Executive or legislative employees
- Judges and employees of the judiciary
- Representatives of the media
- Persons under the age of 18
- Appearances before Medical Practitioners
Other Exemptions

- Contact by telephone, e-mail, letter or FAX
- When only RF and/or UBf funds are being considered
- Contacts made during the "Restricted Period" of a bid or RFP
- Meetings to discuss the finalization of a contract or purchase order
- Appearances following the award of a contract or purchase that are within the original scope

Other Exemptions

- Participation in meetings and conferences that are open to the public
- Interactions with vendors at a conference or vendor fair
- Webinars that are open to the public

Other Exemptions

- UB initiated contacts that are purely informational
- UB initiated contacts with M/WBE firms to determine interest in or availability to provide goods or services
- Whenever confidentiality restrictions apply
- Emergency procurements as defined by the State Finance Law
- FOIL Appeals
Project Sunlight Reporting Form

The Project Sunlight Reporting form is available at:

E-mail the completed form to:
ubsd_DLPrProjectSunlight@buffalo.edu

For entry into the OGS Project Sunlight database,

Tip: Ask the person(s) making the appearance for their business card in order to make filing out the form easier.

Summary

Appearances must be reported when:
- The contact is in-person or by an interactive video conference
- The potential value of a procurement would be $25,000 or more in State funds
- The procurement is not covered under an existing contract/purchase order

Example 1

A vendor stops by your office and speaks to your administrative assistant, who processes either e-Req's or uses a procurement card to purchase office supplies, abandons selling $15 copier paper. Your assistant tells the vendor that there are no plans to order copier paper at this time, but accepts some promotional literature from the vendor, including his business card to be passed on to you. Your unit spends over $25,000 per year in State funds on copier paper.

Does this appearance need to be reported?

Yes

In this case, your administrative assistant is the decision-maker for the purchase of office supplies.
Example 2

A vendor meets in-person with a project manager to discuss the possibility of providing consultation services on a project. The estimated value of the contract is $37,000 and would be paid for with State funds.

Does this appearance have to be reported?

Yes

In-person and video conference meetings where the value of the procurement is $25,000 or more must be reported under Project Sunlight.

Example 3

The advertising department of a business contacts you in-person and discusses an advertising promotion that the company is offering would like UB to advertise in their public computing sites.

Does this appearance need to be reported?

Yes

Provided that the advertising is valued at $25,000 or more and would be paid for using State funds and you are either the decision-maker regarding the purchase or will provide a recommendation to the decision-maker.

Example 4

A vendor’s regional sales manager and new representative stops by your office and introduces the new representative to you, the buyer for computer supplies. The vendor is interested in selling computer supplies and asks to setup an appointment to make a presentation. You agree and set up a meeting for the following week.

Does this have to be reported under Project Sunlight?

No

The appearance to provide an introduction and setup a meeting is ministerial and does not have to be reported. However, the follow-up meeting that you agreed to will have to be reported within 3 business days of the meeting if the potential annual purchase value exceeds $25,000 in State funds.
Example 5

A bidders conference occurs during the RFP process where the buyer meets with several vendors to discuss the requirements of a bid. Is the appearance of the vendors during the bidders conference reportable?

No

Bidders conferences during the RFP process are within the Restricted Period and therefore are not reportable.

Example 6

During a conference, you as a decision-maker stop by a vendor’s table and talk to the vendor’s representative at the table. During the conversation the vendor provides details of their product and information regarding “conference discounts” available if you order within the next ten days for a specialized piece of equipment valued at $38,000. Is this classified as an appearance that must be reported?

No

Contacts at conferences and vendor expos are not reportable.

Example 7

As a decision-maker, you have an in-person meeting with a vendor who is under State contract. During the discussion the vendor brings up a new product that she has just started to offer. The new product is valued at over $25,000 and is not covered under the current contract. Is this classified as a reportable appearance?

Yes

The meeting was not reportable until the new product was discussed. Since the new item is not covered under the existing State contract and you have State funds, this is a reportable appearance.
Example 8

As a decision-maker, you have a phone conversation and e-mail exchange with a vendor who is under State contract. During the discussion the vendor brings up a new product that she has just started to offer. The new product is valued at over $25,000 and is not covered under the current contract. Is this classified as a reportable appearance?

No
Phone calls and e-mails are exempt from reporting.

Example 9

During a Buffalo Bills game you bump into a vendor's salesperson that UB does a substantial amount of business with using State funds. During half-time the salesperson gives you his sales pitch on a new promotion that his company is offering. Is this classified as a reportable appearance?

Yes
Since you have State funds, the encounter with the salesperson was not reportable UNTIL the person put on his "salesman hat" and decided to discuss business.

Example 10

You are responsible for developing a bid for a specialized software product valued at about $60,000 and meet with a vendor to determine technical details of the item that will be included in the bid specification. Is this classified as a reportable appearance?

No
Since you are conducting market research required to prepare the bid specification, this is not a reportable appearance.
Example 11

You are part of the technical staff and not a decision-maker. Over the years you have gotten to know a vendor from different products you support. The vendor stops by and gives you tickets to a Sabers game. Is this classified as a reportable appearance?

No

This is not covered by Project Sunlight, however, it is not permissible to accept “gifts” from vendors.

Example 12

You receive an invitation to attend a HP Roadshow presentation of their latest offerings. You attend. Is this classified as a reportable appearance?

Yes

Yes, this is reportable assuming that HP is attempting to influence the decision to buy $25,000 or more in goods and services using State funds that are not on State contract. It is a safe assumption that the newest models are not yet on State contract.

Note: The UB organizer of the presentation can complete the reporting requirements on behalf of all attendees.

Questions regarding Project Sunlight

Questions regarding Project Sunlight may be directed to:

ubsd_DLProjectSunlight@buffalo.edu

Additional information is available at the SUNY Project Sunlight Compliance website

https://www.suny.edu/compliance/topics/projectsunlight/index.cfm