FAQs – PROJECT SUNLIGHT

Project Sunlight is a regulation that requires certain persons at CUNY to disclose information about conversations or meetings they have with vendors seeking to procure state contracts with a value of $25,000 or more. This memorandum answers frequently asked questions about this regulation. For Project Sunlight updates, please visit the webpage for the Office of the General Counsel and Senior Vice Chancellor for Legal Affairs: http://www.cuny.edu/about/administration/offices/la.html.

WHAT IS PROJECT SUNLIGHT?

Project Sunlight is a component of the Public Integrity Reform Act of 2011 that went into effect on January 1, 2013. Its purpose is to make government more transparent to the public by giving it access to an online database that contains information about the persons and entities that interact with government decision-makers or persons who advise them. Project Sunlight covers five areas: procurement, rate making, regulatory matters, judicial or quasi-judicial proceedings and adoption or repeal of a rule or regulation. Due to the nature of CUNY’s work, we only need to provide information about interactions that relate to procurement.

WHO AT CUNY IS COVERED BY PROJECT SUNLIGHT?

According to Project Sunlight, individuals who have the authority to exercise discretion with regard to procurement and those who advise them are considered “covered persons.”

For Central, we have defined this to include the Chancellor, Executive Vice Chancellors, Senior Vice Chancellors, Vice Chancellors and Associate Vice Chancellors as well as the Director for Environmental Health, Safety and Risk Management, the Director of Public Safety and certain individuals in the Office of the University Controller and the Office of Facilities Planning, Construction and Management (FPCM).

For campuses, we have defined this to include at a minimum, the President, Provost, Vice President for Administration and Finance and business manager on each campus as well as the lead person for Procurement, Information Technology, Public Safety and Facilities. Each campus may add to the list of covered persons as appropriate.

Each of the above persons, as well as the individuals these persons list as their advisors on procurement-related matters, will be listed as “covered persons” and receive training.

HOW DO I KNOW IF I AM A “COVERED PERSON?”

If you hold one of the enumerated positions, you are a “covered person.” In addition, we will send email notifications to persons holding these positions as well as those who advise them on procurement-related matters.

WHAT TYPES OF INTERACTIONS AM I REQUIRED TO REPORT UNDER PROJECT SUNLIGHT?
You must report all substantive telephone/video conversations or meetings with persons outside CUNY seeking to procure state contracts with a value of $25,000 or more. You do not need to report written interactions, such as emails or letters. For the specific information you need to disclose, please see the “Procedures” section below.

SHOULD I AVOID HAVING CONVERSATIONS WITH PERSONS SEEKING TO PROCURE A STATE CONTRACT?

No. Project Sunlight in no way forbids you from having conversations with persons about state contracts with a value of $25,000 or more; it only requires that you disclose certain information about them. As before, you must follow all laws and policies relating to procurement.

DO I NEED TO DISCLOSE CALLS IF THE CALLER ONLY WANTS INFORMATION, SUCH AS HOW TO GET ON A BIDDERS LIST, OR MY MAILING ADDRESS?

No. You do not need to disclose ministerial or informational conversations.

DO I NEED TO DISCLOSE MEETINGS OR CALLS THAT I INITIATE?

Yes, if they are for the purpose of procuring a state contract with a value of $25,000 or more.

I OFTEN SPEAK OR MEET WITH VENDORS IN ORDER TO STAY CURRENT ON WHAT PRODUCTS AND SERVICES ARE BEING DEVELOPED AND OFFERED FOR SALE. DO I NEED TO DISCLOSE THESE CALLS?

No. If you are only doing market research, you do not need to report the call. However, we urge you to be careful here. If the meeting turns out to be more of a “sales pitch” than an educational session, you should disclose it. Similarly, if after speaking with a vendor, you realize you may be interested in procuring a product from the company the vendor represents, then you need to report all subsequent calls or meetings with that vendor. You may wish to advise vendors that you are only seeking information from them and are not interested in their making a sales pitch (and will need to disclose it if they do).

WHAT IF I HAVE A CONVERSATION WITH A VENDOR ABOUT A PRODUCT BUT THE VENDOR DOES NOT MENTION ITS COST?

If there is no discussion of cost, use your best judgment whether the value of the goods discussed is $25,000 or greater and err on the side of reporting.

DO I NEED TO DISCLOSE CONVERSATIONS WITH VENDORS ABOUT PROCUREMENTS VIA A PURCHASE ORDER AGAINST AN OGS CENTRALIZED CONTRACT?

No. Project Sunlight covers interactions with persons seeking to procure a state contract. Where there is an OGS centralized contract, there will not be a procurement contract.
DO I NEED TO DISCLOSE CONVERSATIONS WITH VENDORS ABOUT THE PROCUREMENT OF GOODS OR SERVICES THAT WILL BE PAID WITH FUNDS FROM THE DORMITORY AUTHORITY FOR THE STATE OF NEW YORK “(DASNY”)?

Yes.

WHAT IF I HAVE NO PLANS (AND NO INTEREST) TO PROCURE THE ITEM A VENDOR TRIES TO SELL ME, DO I STILL HAVE TO DISCLOSE THE INTERACTION?

Yes.

I JUST PARTICIPATED IN A MEETING THAT WAS OPEN TO THE PUBLIC WHERE A VENDOR MADE A PRESENTATION ABOUT ITS PRODUCT. DO I NEED TO REPORT THIS?

No. You do not need to report your participation in meetings which are open to the public, such as conferences or meetings subject to the Open Meetings Law or where a record of the meeting is otherwise publicly available.

DO I NEED TO DISCLOSE TELEPHONE CALLS OR MEETINGS WITH VENDORS THAT OCCUR AFTER WE HAVE ISSUED AN ADVERTISEMENT FOR PROPOSALS?

You do not need to disclose these under Project Sunlight. You should consider whether you need to disclose them pursuant to the Procurement Lobbying Act.

HOW DOES PROJECT SUNLIGHT DIFFER FROM THE PROCUREMENT LOBBYING ACT (“PLA”)?

They cover different time periods. The requirements of the PLA apply during the Restricted Period, i.e., from the time CUNY announces or advertises for bids to the award of the final contract. Project Sunlight applies to conversations that occur prior to the Restricted Period and regardless of whether there is a planned procurement. Project Sunlight does not cover conversations that occur during the Restricted Period.

PROCEDURES FOR COVERED PERSONS

DO I NEED TO TAKE TRAINING?

Yes. Your Ethics Officer will provide you with a training Power Point presentation. You need to send an email to the Ethics Officer confirming you have reviewed it.

WHAT INFORMATION DO I NEED TO REPORT ABOUT EACH INTERACTION?

You need to provide the date of the interaction, where it occurred as well as the names of all participants and who each participant represented. You also need to provide the city, state and zip code for all non-CUNY participants.

IF SEVERAL PEOPLE FROM CUNY PARTICIPATE, DO WE EACH NEED TO REPORT THE INTERACTION?
No. Only one person from CUNY needs to complete the disclosure form for each meeting. If there is more than one representative of CUNY present at a meeting, you should decide which one of you will complete the disclosure form for the meeting.

WHAT IF A PERSON CALLS ME MORE THAN ONCE TO DISCUSS A POSSIBLE PROCUREMENT? DO I HAVE TO REPORT EACH CALL?

Yes, unless the calls are ministerial or seeking information.

HOW DO I REPORT THE INFORMATION?

You complete the Project Sunlight Disclosure Form, which your campus’ Ethics Officer will send you along with instructions on where you should send the completed form. You do NOT need to enter the information into the State’s database; your campus’ Ethics Officer will arrange for this to be done.

HOW LONG AFTER THE INTERACTION DO I NEED TO REPORT THE INFORMATION?

You need to complete the form as soon as possible because we have only five days from the interaction to report it to the State.

WHAT IF I HAVE A QUESTION ABOUT PROJECT SUNLIGHT?

Campus personnel should contact their campus’ Ethics Officer. Persons at Central can send questions by email to Project.Sunlight@mail.cuny.edu.