

## **101 OVERVIEW**

### **101.07 SURA POLICY ON EXTERNAL RELATIONS**

#### **A. SCOPE**

This policy shall apply to SURA, as well as to all limited liability companies controlled by SURA, including Jefferson Science Associates, LLC (“JSA”). This policy covers all external relations with all branches of government, and provides rules and restrictions regarding lobbying, political activities and related matters. It shall apply to any person, whether or not an employee, who is acting on behalf of SURA or JSA. Unless otherwise noted, all references to SURA shall be deemed to include JSA.

#### **B. POLICY**

It is SURA’s and JSA’s policy to comply in all respects with applicable law, including all federal statutes, regulations, contract and grant provisions, and applicable federal guidelines relating to their external relations with the U.S. Government.

#### **C. APPLICABLE LAWS**

1. Internal Revenue Code Section 501 (c)(3)--Lobbying Activities
  - a. As an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, SURA may not engage in lobbying activities that constitute a “substantial part” of the activities of SURA and its controlled entities. Because JSA is a limited liability company controlled by SURA, it shares this same limitation and may not engage in lobbying activities that constitute a substantial part of the activities of SURA and its controlled limited liability companies. Under the Internal Revenue Code and regulations, “lobbying” refers to attempts to influence federal or state legislation through direct or grass roots<sup>\*/</sup> lobbying campaigns, contributions or expenditures. Lobbying includes research, planning, coordination and preparatory activities that are part of a lobbying campaign. Lobbying does not include nonpartisan analysis, study or research; advice or assistance given at the request of a governmental body; “self-defense” communications before a governmental body; communications with SURA’s members, or contacts unrelated to influencing legislation.
  - b. The Internal Revenue Code also contains an elective provision whereby a Section 501(c)(3) organization may elect to be governed by rules that define when lobbying is or is not “a substantial part” of the organization’s activities. Under these rules, the total amount of expenditures that an organization and its controlled entities may expend in lobbying in any one year is limited to \$1,000,000. Of this amount, up to one-fourth, or \$250,000, may be expended in grass roots lobbying. SURA has elected to be governed by these rules.
  - c. An organization that exceeds the \$1,000,000 or \$250,000 limitation is subject to an excise tax on its excess lobbying expenditures. Further, an organization whose lobbying expenditures exceed 150% of either limitation on average over a four-year period forfeits its Section 501(c)(3) status. Thus, it is very important that both SURA and JSA monitor and track their lobbying activities to ensure that they keep within the applicable limitations established by the Internal Revenue Code.

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<sup>\*/</sup> “Grass roots” lobbying campaigns are communications directed toward the general public or segments thereof that (a) refer to a specific legislation or a specific legislative proposal; (b) take a view on that legislation or proposal; and (c) include a “call to action” (e.g., write your Senator or Congressman.)

2. Internal Revenue Code Section 501 (c)(3)--Political Activities

Organizations that are exempt under Section 501(c)(3) of the Internal Revenue Code must not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. This same restriction applies to any limited liability company controlled by SURA, such as JSA. Thus, as required by the Internal Revenue Code, SURA and JSA must not support or oppose candidates for political office at the federal, state or local levels. All personal political activity of SURA or JSA staff must be carried on outside the SURA or JSA workday and workplace and without any inference that the individual represents, or speaks for, SURA or JSA. No SURA or JSA property, equipment or facilities may be used for political activities or purposes. While SURA and JSA employees are encouraged to participate in the political process as a matter of good citizenship, they must do so on their own time, at their own expense and without the use of any of SURA's or JSA's property, equipment or facilities.

3. The Byrd Amendment

In addition, SURA and JSA are subject to restrictions on lobbying activities relating to Federal procurements under a statute known as the Byrd Amendment ("Byrd"). This law prohibits SURA, JSA and their subcontractors at all tiers from charging the Government for the costs of influencing or attempting to influence any Federal agency or the Congress in connection with contract, grant or cooperative agreement actions.

Byrd does not prohibit lobbying activities -- it simply makes their costs unallowable (that is, they cannot be charged to the Government either as a direct cost or through overhead). Thus it is important to ensure that such costs, if incurred, are charged correctly in SURA's and JSA's accounting system. Fortunately, most routine interactions with the Government by SURA and JSA employees are not restricted by Byrd.

Two types of activities are exempt from Byrd's restrictions. First, agency and legislative liaison efforts if performed by SURA and JSA employees (but not consultants) are exempt. These activities consist of: (1) providing any information requested by the Government; (2) where not related to a specific solicitation, (i) discussions regarding the qualities, characteristics, and capabilities of SURA's or JSA's products or services, or the terms and conditions of sale, and (ii) technical discussions and other activities regarding the application or adaptation of SURA's or JSA's products or services; and (3) if conducted prior to a formal solicitation, (i) providing unsolicited information necessary for an agency to make an informed decision about the initiation of a contract action, and (ii) technical discussions regarding the preparation of an unsolicited proposal prior to submission.

Second, Byrd exempts certain professional and technical services (whether performed by JSA employees or by persons acting on behalf of JSA, such as consultants), when rendered directly in the preparation, submission, or negotiation of a contract, grant or cooperative agreement, or for meeting the requirements necessary by law, regulation, or contract to obtain or perform such an agreement.

Compliance with Byrd is assessed through submission of a certificate and, when certain criteria are met, submission of LDA reports (see below), plus similar information from subcontractors. Violations of the Byrd Amendment may result in civil penalties for SURA, JSA and/or the employee violating the amendment.

4. The Lobbying Disclosure Act of 1995 (LDA)

- a. Organizations (including Section 501(c)(3) organizations) that engage in a certain amount of federal lobbying activities through personnel who are compensated to lobby on the organization's behalf, must

register and file disclosure reports pursuant to the Lobbying Disclosure Act (LDA). This registration and reporting requirement applies if two conditions are met:

- (1) First, the organization must have one or more compensated employees who are “lobbyists”. For purposes of the LDA, a “lobbyist” means a person who makes more than one “lobbying contact” and spends at least 20% of his or her total time on “lobbying” over the six-month period either from January through June or from July through December. A “lobbying contact” is an oral or written communication to a Member of Congress, congressional staff, certain senior executive branch officials on the formulation, modification or adoption of a federal law, rule, regulation or policy. The LDA permits Section 501(c)(3) organizations to use the Internal Revenue Code definition of “lobbying” for LDA purposes.
  - (2) Second, the organization must have spent \$24,500 in a six-month period either from January through June or from July through December on lobbying. This amount includes sums paid to an outside lobbyist.
- b. If these two tests are satisfied, the organization must register and file appropriate reports with the Senate and the House disclosing the organization’s lobbying activities. To date, SURA has not met both of these tests. It is not expected that JSA will meet these tests, as well. Nonetheless, it is important that SURA and JSA monitor and track their lobbying expenditures and activities to make sure that they do not have an LDA registration or reporting obligation.
  - c. Outside lobbyists retained by either SURA or JSA for lobbying purposes are responsible for their own compliance with the LDA’s registration and reporting requirements.
5. DOE Contract Prohibited Activities

JSA’s contract with DOE provides that none of the contract funds shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This section of the U.S. Code allows communications to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of public business.

#### **D. PROCEDURES**

1. The following procedures shall apply to the implementation of this policy:
  - a. No lobbying may be performed on SURA’s or JSA’s behalf without the express written approval of the President of SURA or the Laboratory Director of JSA (as the case may be).
  - b. Only the SURA President, or his designee(s) as specified in writing, is authorized to direct a lobbyist on SURA’s behalf. Only the JSA Laboratory Director is authorized to direct a lobbyist on JSA’s behalf.
  - c. Lobbyists engaged by SURA or JSA are responsible for their own compliance with the LDA registration and reporting requirements. Any contract between SURA or JSA and an outside lobbyist shall specifically require the lobbyist to comply with all applicable laws, including the LDA.
  - d. SURA’s Chief Financial Officer and JSA’s Chief Financial Officer shall monitor any expenditure of funds and/or corporate activities that could be construed as “lobbying”, “lobbying contacts” or

- “lobbying activities” as defined above, and ensure the submittal of appropriate registration and disclosure documents, if required.
- e. SURA’s and JSA’s accounting systems will provide for specific identification of lobbying related costs; similarly, any employees involved with lobbying activities will certify every six months whether or not they have spent 20% or more of their time lobbying.
  - f. SURA’s legal counsel may from time to time recommend additional procedures to ensure SURA’s and JSA’s compliance with applicable law.