

<p>New York State Information Technology Policy</p>	<p>No: NYS-P10-001</p>
<p>IT Policy Name:</p> <p>Advertisements, Endorsements and Sponsorships on State Entity Websites</p>	<p>Updated: 03/25/2010</p> <p>Issued by: NYS ITS State Chief Information Officer Director Office of IT Services</p> <p>Policy Owner: Customer Relationship Management Services (CRMS)</p>

1.0 Purpose and Benefits of the Policy

State government entity website managers have made tremendous strides to improve the content and overall experience of visitors to their websites, including making their sites more citizen-centric and easier to interact with. As the State makes more and more services and information available on the Internet, new challenges emerge. One such challenge is the issue of advertising on state government entity websites or creating partnerships with advertising companies to host an agency's website. From a funding aspect, this opportunity may look attractive. However, numerous complex legal and policy issues arise when considering advertising on government websites.

Perhaps it is in light of these issues that Gov Internet domain registration requirements clearly prohibit advertising on public websites registered in the .gov domain. Specifically, "a .gov domain may not be used to advertise for private individuals, firms, or corporations, or imply in any manner that the government endorses or favors any specific commercial product, commodity, or service." See http://www.dotgov.gov/program_guidelines.aspx

This policy sets forth the considerations a New York State government entity is required to assess before permitting any advertisements, endorsements or sponsorships on its website.

2.0 Enterprise IT Policy Statement

Section 2 of Executive Order No. 117 provides the State Chief Information Officer, who also serves as Director of the NYS Office for Technology, the authority to oversee, direct and

coordinate the establishment of information technology policies, protocols and standards for State government, including hardware, software, security and business re-engineering. Details regarding this authority can be found in NYS ITS Policy [NYS-P08-002, Authority to Establish State Enterprise Information \(IT\) Policy, Standards and Guidelines](#).

3.0 Scope of the Policy

This policy applies to all State government entities, as defined in NYS Executive Order No. 117.

4.0 Policy Statement

4.1 Authority for Acceptance of Advertising by State Agencies

The issue of whether New York State agencies may accept advertising by private entities has been addressed by the Attorney General's Office. See generally 1992 Op. Atty. Gen. F-5; 1977 Op. Atty. Gen. 42; 1955 Op. Atty. Gen. 181. These opinions conclude that an agency needs either express or implicit statutory authority to accept advertising. If an agency has implicit authority to accept advertising, then the agency's authority to advertise is limited to carrying out its purpose or mission.

Currently, a few state agencies have express authority to accept advertising from private entities. Also, some State agencies appear to have implicit authority to accept advertising from private entities to further the agency's purpose. Express authority may be found in an agency's governing law that specifically allows advertising to be sold. Implied or incidental authority may be found in an agency's governing law where the sale of advertising may be construed to be in furtherance of the agency's primary mission or of an agency's specific obligation or responsibility. In most cases where an implied or incidental authority is found, a strong "necessary and proper" or "necessary and convenient" clause in the agency's enabling legislation bolsters the interpretation.

A state government entity's web page must not be used for commercial, non-mission-related purposes. This is the case even if the state government entity's web site is hosted by a private entity. Consequently, before permitting **any** advertising on a state government entity website, the state government entity should check with its Legal Counsel to determine whether it has the requisite express or implicit authority and whether such advertising would further the agency's purpose.

4.2 Banner Ads, Pop Ups and Vendor-Hosted Website Advertising

Banner ads, pop up ads and vendor-hosted website advertising create the following issues which should be assessed by the state government entity's Legal Counsel:

- Advertising for private individuals, firms, or corporations can imply that the state government entity endorses or favors a specific commercial product, commodity, or service. Citizens expect their government to be impartial. Concomitantly, businesses and for-profit entities expect to be treated fairly by the government. Endorsing some commercial products and services, while excluding others, constitutes preferential treatment. It is important to consult with Legal Counsel to consider the implications of advertising **before** permitting it.
- Privacy violations may occur when a user accesses web advertisements. This is because advertisers frequently engage in behavioral targeting of web users through data collection. Some websites record information about users by automatically depositing a piece of information in the "cookie" file on the user's computer. The cookie helps track information communicated between the user's browser and the server.
- Redirect options are not within the state government entity's control. The state is unable to exercise full control over banner advertisement "redirects" that may result in unintended consequences to the user and/or the state government entity. Individuals "clicking" on a banner advertisement have little or no control of the redirect options to return the user to the original website. Re-routed advertising links can result in the user being linked to questionable or problematic web sites, which may negatively impact the state's image.

4.2 Links and Endorsements on Websites

- Links to federal, state and local government sites are appropriate.
- Links that provide access to a web site which contains software that is necessary or enhances the operation of the site (e.g. Adobe Acrobat) are appropriate.
- A state government entity should limit external linking to information or services necessary for the proper performance of an agency function or in furtherance of an agency mission. Agencies

should *not* provide links to private businesses, unless all such businesses are provided equal access; unless a formal business partnership has been established and/or unless the reason for

the link is primarily educational or resourceful in nature.

- The State government entity's web site should contain a statement that the links do not constitute endorsements, including a disclaimer. A sample statement and disclaimer follow:

External Links

We provide many links to external web sites. These links are provided for your convenience and do not in any way constitute an endorsement of the software or companies, as noted in our disclaimer.

Sometimes external page links provided are moved or removed creating a broken link. If you think you have discovered a broken link on our Web site please notify us at webfeedback@agency.ny.gov.

Website Disclaimer

Thank you for visiting the AGENCY website.

We hope your visit was helpful and informative. AGENCY provides links to other governmental agencies in the State and federal government. We also provide links to web sites of other organizations to provide visitors with certain information. If you click on the links on these pages, you will be leaving AGENCY. Our provision of these links does not imply approval of the listed destinations, warrant the accuracy of any information in those destinations, constitute endorsement of the entities to whose sites the links are made, or endorse any of the opinions expressed on any of these outside Web sites. These Web sites operate under the auspices and at the direction of their respective owners. If you have a question or comment about any of these sites, please contact them directly on their site.

4.3 Sponsorships

It might be appropriate to acknowledge sponsorships with subtle logos. Before permitting such a logo, the State government entity should check with Legal Counsel.

5.0 Policy Compliance

This policy is effective upon publication.

6.0 Definitions of Key Terms

A complete listing of defined terms for NYS Information Technology Policies, Standards, and Best Practice Guidelines is available in the "NYS Information Technology Policies, Standards, and Best Practice Guidelines Glossary" (<http://www.oft.state.ny.us/policy/glossary.htm>).

For purposes of this policy, the following terms also apply:

- **“Advertisement”** is a logo, graphic, text, sound, video or any other means intended to promote or market a service, facility or product offered by an entity for a commercial purpose. Advertising includes messages containing qualitative or comparative language, price information or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use any company, service, facility or product.
 - Displaying the name, logo, product or service of a non-government entity in exchange for money, services, or other special consideration, including reduced cost for a product or service may also constitute “advertising”; for example, "Powered by Company X" or "Web design by Company X."
 - Linking to external sites that provide a particular commercial product or service. A state government entity should ensure that all links to non-government websites further the agency's mission, functions and responsibilities.
- **“Banner Ad”** is a typically rectangular advertisement placed on a Web site, above, below, or to the side of the site's main content area.
- **“Endorsement”** is a statement of approval of a product, service or individual business, person or any other non-governmental entity.
- **“Pop Up Ad”** is a type of window that appears on top of (over) the browser window of a Web site that a user has visited. In contrast to a pop-under ad, which appears behind (in back of) the browser window, a pop-up is more obtrusive as it covers other windows, particularly the window that the user is trying to read. Pop-ups ads are used extensively in advertising on the Web.

- **“Sponsorship”** is a logo, graphic, text, sound, video or any other identifier recognizing an individual business, person or any other non-governmental entity in exchange for donation of services, support, underwriting a project, etc.

7.0 Contact Information

Submit all inquiries and requests for future enhancements regarding this policy to:

**Attention: Policy Owner
Customer Relations
New York State Office of the Chief Information Officer and Office for Technology
State Capitol, ESP, P.O. Box 2062
Albany, NY 12220**

Questions may also be directed to your ITS Customer Relations Manager at:
Customer.Relations@cio.ny.gov

The State of New York Enterprise IT Policies may be found at the following website:
<http://www.its.ny.gov/tables/technologypolicyindex.htm>

8.0 Revision Schedule and History

Date	Description of Change
03/25/2010	Original Policy Release
03/25/2012	Scheduled Review
09/12/2012	Reformatted and updated to reflect current CIO, agency name, logo and style.

9.0 Related Documents
