



# Office of Information Technology Services

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[www.its.ny.gov](http://www.its.ny.gov)

<b>Office of Information Technology Services Guideline</b>	<b>No:</b> ITS-G20-001
<b>ITS Guideline:</b>  <b>Legal and Ethical Considerations for Vendor Communications</b>	<b>Updated:</b> 12/07/2020
	<b>Issued By:</b> NYS Office of Information Technology Services  <b>Owner:</b> Division of Legal Affairs

## 1.0 Purpose and Benefits

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This guideline provides guidance to employees on appropriate and permissible communications with vendors.

## 2.0 Authority

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*Section 1 of Executive Order No. 117*, established January 2002, charges the State Chief Information Officer with overseeing and supervising the management and operations of the Office of Information Technology Services (ITS). *Section 102(2) of the State Technology Law* gives the Director of ITS responsibility for the administration of ITS. Details regarding this authority can be found in NYS ITS Policy, [NYS-P08-002 Authority to Establish State Enterprise Information Technology \(IT\) Policy, Standards and Guidelines](#).

## 3.0 Scope

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This guideline applies to all ITS personnel, including employees, consultants, and contractors (ITS Personnel).

## 4.0 Information Statement

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All vendor communications must be routed through the ITS Vendor Sourcing and Management Organization (VSMO) pursuant to [ITS Vendor Communications Policy, ITS-P18-005](#). While working within the framework established by that policy, ITS Personnel must also understand that the Public Officers Law (POL), the State Finance Law (SFL), and various other policies and provisions further restrict how State employees and personnel may interact with potential, current, and former vendors. While it is generally permissible to communicate with vendors on a variety of topics, ITS Personnel should keep the following guidelines in mind:

#### 4.1 Confidentiality

Pursuant to the POL, ITS Personnel may not disclose confidential ITS information to vendors. This includes, but is not limited to, possible or planned future procurements, or details of ITS or State information technology infrastructure or cybersecurity systems.

#### 4.2 Conflicts of Interest

ITS Personnel must also avoid any conduct that may create the appearance of a conflict of interest in their interactions with vendors. A conflict of interest could potentially arise if ITS Personnel appear to: a) favor a specific vendor over other vendors; b) be unduly influenced by a specific vendor; or c) to be engaged in activities that violate the public trust.

To avoid a potential conflict of interest, ITS Personnel should be sure to offer the same opportunities for meetings and discussions to all relevant vendors. When possible, multiple ITS employees should participate in vendor meetings to avoid any inference of impropriety.

ITS Personnel should also be aware that they are prohibited by both the POL and the regulations of the Joint Committee on Public Ethics (JCOPE) from accepting any “gifts” (generally, items valued at over \$15) from vendors. However, items offered by a vendor that do not meet the legal definition of a “gift,” such as food and drink valued at \$15 or less, and promotional items without substantial resale value, may be accepted under circumstances that do not give rise to an actual or apparent conflict of interest. ITS employees who receive any gifts from current or potential vendors should immediately seek guidance from the Division of Legal Affairs (DLA).

#### 4.3 Procurement Lobbying Law

**If a procurement is in a restricted period, ALL vendor communications regarding that procurement must be directed to the agency’s Designated Contacts for the procurement. The agency’s Designated Contacts for each procurement will be a staff member of the VSMO. Any emails sent to ITS Personnel regarding the procurement must be forwarded to the Designated Contacts.**

ITS Personnel should consult the ITS website or contact ITS VSMO regarding whether a procurement is in a restricted period as defined by the SFL. A restricted period begins with the posting of a solicitation and continues until the final award, which may require contract approval by the Office of the State Comptroller.

Approved ITS Personnel may meet with vendors that are involved in a procurement during a restricted period **but must** limit such conversations to topics other than that particular procurement. ITS Personnel should create or request an agenda prior to such meetings to help limit conversations that may improperly involve the restricted period.

If an employee is unsure whether a topic of conversation is prohibited by the restricted period, the employee should contact the DLA and VSMO prior to any such communications with the vendor.

For more information about the Procurement Lobbying Law, please refer to the guidance issued by the Advisory Council on Procurement Lobbying, at <https://ogs.ny.gov/ACPL/>.

## 5.0 Compliance

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This guideline shall take effect upon publication. Compliance with enterprise guidelines is non-compulsory, but strongly suggested. ITS may amend its guidelines at any time.

## 6.0 Definitions of Key Terms

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Except for terms defined in this guideline, all terms shall have the meanings found in <http://www.its.ny.gov/glossary>.

## 7.0 Contact Information

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Submit all inquiries and requests for future enhancements to the policy owner at:

**Division of Legal Affairs**  
**Reference: ITS-G20-001**  
**NYS Office of Information Technology Services**  
**State Capitol, PO Box 2062**  
**Albany, NY 12220-0062**  
**Telephone: (518) 473-5115**  
**Email: [its.sm.dla@its.ny.gov](mailto:its.sm.dla@its.ny.gov)**

ITS policies, standards, and guidelines may be found on the Inside Edge at:  
<https://nysemail.sharepoint.com/sites/myITS/InsideEdge/Pages/Policies.aspx>

## 8.0 Revision History

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This guideline shall be reviewed at least once every year to ensure relevancy.

Date	Description of Change	Reviewer
12/07/2020	Issued guideline	Division of Legal Affairs

## 9.0 Related Documents

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[ITS-P08-005 Vendor Communications](#)

### Applicable Statutes

[State Finance Law §139-j. Restrictions on contacts during the procurement process](#)

[State Finance Law §139-k. Disclosure of contacts and responsibility of offerors](#)

Public Officers Law §73(5) and §74. Gifts

### Information

[Guidelines on Procurement Lobbying \(Frequently Asked Questions\)](#) Revised February 16, 2006 and replaces previously released version in its entirety. Last updated September 16, 2010.