



## Intellectual Property Rights

**Confidentiality:** Public  
Prepared By:  
Version:  
Date: 12 May 2004

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Date Approved:

## Document Control

### Document Location

Q:\General Share Drive\Web updates\post to new site\Governance\revised\CTO\_1.3\_Intellectual\_Property.doc

### Electronic Records Management Information

File Folder Number: OCIO08/0xxx – Document Number: 08OCIOxxxxx

### Author(s)

### Function / Role

Author

Role

### Revision by

### Version

### Date

Initial draft and consultation

### Distributed to

### Version

### Date

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*Need-to-know - A person must have a legitimate need to access the security classified resources to carry out their official duties. Other justifications, such as position of authority, or the desire to enter controlled areas or access information for the sake of convenience, are not valid.*

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## CTO/P1.3 GOVERNANCE – INTELLECTUAL PROPERTY RIGHTS

### Government Policy on Information & Communication Technology

#### CTO/P1.3 Governance – Intellectual Property Rights

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Security Classification:	Public	Version:	V2.3.1	Status:	Approved
Audience:	SA Government Agencies	Compliance:	Mandatory		
Mandate/Authority:	Cabinet I.T. Subcommittee	Creator:	Government ICT Services		
Authorisation Date:	22 April 1996	Primary Contact:	Strategy & Operations		
Last reviewed:	10 May 2007		Government ICT Services Division		
Expiry Date:	31 December 2007		Department for Transport, Energy and Infrastructure		
Publication Date:	15 May 2007		Tel: 8226 3558		

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#### Coverage:

The South Australian public authorities required to adhere to this Standard are defined in CTO/P1.1 Government Policy on Information & Communication Technology – Governance – Compliant Authorities.

This policy or standard is intended for use by South Australian Government agencies only. Reliance upon this policy or standard by any other person is entirely at their own risk and the Crown in the right of South Australia disclaims all responsibility or liability to the extent permissible by law for any such reliance.

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This page was last modified 12 May 2004

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## 1. BACKGROUND

### 1.1 Policy Statement

The Government does not need to own the intellectual property rights of the software it uses. Ownership by Government of software developed by a contractor for Government use need only be contemplated where the software is core to the business of an Agency and the Agency needs to have the ability to change the software in future to reflect legislative, administrative or policy changes.

### 1.2 Rationale & Background

1. Government's role in IT is not that of a developer but of a user of software.
2. Government experience in commercialising software is poor. Greater value can be derived if the Government negotiates the intellectual property rights over to the software developer or purchaser.

## 2. IMPLEMENTATION

1. **For software owned by the Government:** No attempt will be made to formally co-ordinate the commercialisation of existing agency software - each agency should deal with opportunities as they arise on a case-by-case basis.
2. **For new software developments carried out by the private sector:**
  - The issue of ownership of intellectual property in software commences from the position that the Government does not need to own software, but may require the rights and ability to define and control changes to be made to it.
  - The preferred option for the Government to retrieve value from commercialisation is via a discount in the initial development cost; as a second preference - via a stream of royalties.
  - A proforma licence defining the relationship between Government and a software developer is available from the Crown Solicitor's Office.