

POLICY: INTELLECTUAL PROPERTY POLICY

This policy provides the framework under which the ITA's intellectual property rights will be protected and governs ITA use of Third Party intellectual property and works.

ITA intellectual property includes items defined in 2.1 made or developed by ITA staff or contractors using ITA support, resources and / or finances.

A key principle of the policy is that investments of public resources and funds should not be exploited solely for private gain. ITA will not invest public resources *specifically* for the purpose of creating marketable intellectual property.

Notwithstanding the above, the management and licensing of rights in ITA's intellectual property should facilitate fair and open access to intellectual property owned by ITA.

1.0 Scope

This policy covers:

- Third Party use of ITA intellectual property and works:
 1. under development;
 2. currently in use; and
 3. under consideration for disposal.
- ITA use of Third Party intellectual property and works.

This policy applies to all ITA personnel and contractors who make or develop Intellectual Property using ITA support.

2.0 Definitions

2.1 Intellectual Property includes intellectual property, industrial and intangible, of whatever nature and kind in any jurisdiction, including software, trademarks, official marks, brand names, business names, trade names, domain names, logos, trade secrets, inventions, innovations, discoveries, developments, formulae, product formulations, compositions of matter, databases, works of authorship, works subject to copyright, moral rights related to copyrighted materials, guides, manuals and designs; and Includes modifications to any of the foregoing in all cases, whether patented or patentable, whether registered or unregistered, and in any medium whatsoever world-wide.

2.2 Intellectual Property Rights means any rights in respect of, in or to intellectual property, whether pursuant to statute, common law or other laws, including any and all:

- Rights in respect of trademarks and trade names;
- Copyrights and the benefit of any waivers of moral rights;
- Database rights;
- Rights in respect of industrial designs, integrated circuit topographies, and mask works;
- Patents and patent applications;
- Rights and obligations in respect of trade secrets; and
- All applications, registrations, renewals, extensions, continuations, divisions, re-issues, and restorations relating to any such rights (where applicable), now or hereinafter in force and effect throughout the world (including any rights in any of the foregoing).

2.3 *Third Parties* are those entities or persons that are arms-length separate legal entities from ITA.

2.4 *Works* include, but are not limited to: trade/training curricula, assessment materials and exams, manuals, learning guides, competency booklets and modules, forms, templates, guides and policies, trademarks, official marks and logos, and print, electronic or web-based information and materials produced by or for ITA to carry out its objectives.

2.5 *Disposal* of intellectual property involves the sale, transfer or licensing of ITA intellectual Property Rights to Third Parties. For purposes of this policy, use or reproduction of Works or a portion of Works belonging to ITA for commercial purposes will be considered disposal of Intellectual Property.

2.6 *Moral Rights* are rights an author of a work or a portion of a work retains over the integrity of the work and the right to be associated (named) or not, with the work as its author even after sale or transfer of the copyright. Moral rights cannot be assigned, but can be waived.

3.0 Authority

The Chief Financial Officer or designate will administer this policy, and has authority to monitor compliance of ITA staff and contractors with respect to:

- *Non-Commercial Purposes*
The Chief Financial Officer or designate may by written agreement grant Third Party rights to reproduce Works or Portions of Works belonging to ITA for non-commercial purposes.
- *Disposal of Intellectual Property*
Disposals of intellectual property as defined in section 2.5 above must be approved by the Chief Executive Officer (CEO) or designate, and be consistent with applicable BC government policy and legislation.

Requests by a Third Party to license Works or a portion of Works for commercial purposes must be expressly approved in writing by the CEO through a license agreement or other ITA-approved form of written permission. Where the disposal is a sale, transfer or a license that provides exclusive rights, the disposal must be done through a competitive process appropriate to the nature of the disposal in accordance with provincial government procurement procedures.

A fee and / or royalty will be charged unless waived at ITA's discretion.

- *Refusal of Requests*
The CEO will refuse permission to reproduce a Work or a portion of a Work if that reproduction:
 1. does not comply with the policies of ITA; or
 2. is not consistent with the *Freedom of Information and Protection of Privacy Act* or any other applicable legislation.
- *Enforcing Compliance*
The Chief Financial Officer or designate will require a Third Party to withdraw or cease reproducing a Work if that reproduction:
 1. purports to be the official version and is not;
 2. is inaccurate, misleading or out-of-date; or
 3. was reproduced without prior ITA authorization.

4.0 Record Keeping

The Chief Financial Officer or designate will ensure maintenance of necessary records of ITA's intellectual property assets.

5.0 Property Rights for ITA Externally Developed Works

The principles of this policy should be incorporated into or referenced in any ITA service or procurement contract, contribution agreement or other contract wherein intellectual property is developed. Unless this requirement is explicitly waived by the CEO, contracts should include specific wording ensuring that copyright in any material produced under contract belongs exclusively to ITA, and requiring the contractor

to deliver, upon request, documents waiving any economic and moral rights that the contractor, contractor's employees and sub-contractors have over the material and confirming assignment of ownership of the copyright to ITA.¹

6.0 Property Rights for ITA Internally Developed Works

Unless there is a written agreement to the contrary, the copyright for any Works that have been prepared or published by ITA's employees in the course of their employment belongs to ITA.

7.0 Property Rights for Collaboratively Developed Works

Collaboration agreements between ITA and Third Parties must specify, in advance and in writing, how the process by which the rights to Intellectual Property arising out of the collaboration will be determined.

8.0 ITA Use of Third Party Works

ITA Personnel and contractors are expected to respect third-party Intellectual Property Rights. This obligation precludes the unauthorized use, reproduction, modification, translation or adaptation of software.

All ITA employees and contractors must perform their duties in compliance with the *Copyright Act* and this policy.

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¹ Canadian Copyright legislation comprises both the *economic rights* to reproduce, create derivatives, distribute, display, perform and alter the work and *moral rights* protecting the creativity of the creator. Economic rights can be assigned, transferred or licensed. Moral rights remain with the creator for the duration of the copyright and cannot be transferred or assigned, but they may be waived.