



Contracting Policy Notice 2007-3 – Intellectual Property arising from Procurement Contracts (Archived)

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To: Functional Heads, Finance and Administration of all Departments and Agencies

September 4, 2007

CONTRACTING POLICY NOTICE 2007-3

1. In the annual procurement reporting exercise departments need to indicate, for each contract valued over \$25,000, whether the contract generates intellectual property (IP) and, if so, whether the Crown or the contractor owns the IP. If the Crown owns it, the permitted exception under the *Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts* ("the policy") must be recorded.
2. The objective of the policy is to promote the commercialization of IP arising from procurement contracts by having the ownership of such IP vest with the contractor, subject to exceptions set out in the policy.
3. About 95% of all procurement contracts do not generate IP. Yet the Datacap software used to report contracts does not have the "No IP" category. As a result, contracts that do not generate IP have been recorded as an exception to the policy. In order to rectify this situation Industry Canada and Public Works and Government Services Canada are working together to modify Datacap.
4. Departments should take note of the modifications to Datacap as shown in Annex 1 and make the requisite changes in their own procurement related databases to ensure that accurate data on contract-generated IP will be provided beginning in calendar year 2008 (to be reported by March 2009).
5. Other actions to assist departments include the preparation of frequently asked questions (FAQs), which will be included in a revised Implementation Guide for this policy later this year, and the development of an e-learning product on IP in procurement contracts as part of the Professional Development and

Certification Program for the Procurement, Materiel Management and Real Property Community.

6. Enquiries concerning this Contracting Policy Notice may be addressed to the Investment, Project Management and Procurement Policy Division, Government Operations Sector, Treasury Board of Canada Secretariat at (613) 957-2432, by fax at (613) 957-2405 or by e-mail at: mo.enoch@tbs-sct.gc.ca.

Original signed by

R.A. Hirst

Executive Director

Assets and Acquired Services Directorate

Attachment: Annex 1 / Annexe 1

Annex 1

Modifications for reporting Intellectual Property arising from Crown Procurement Contracts

For reporting procurement contracts valued at \$25,000 and above using the Datacap data entry software, the field "Intellectual Property" is used to indicate if the Crown or supplier has ownership of the intellectual property (IP) associated with the contract. Where the Crown owns the IP, the specific exception permitted by the *Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts* has to be provided.

However, since most procurement contracts do not generate IP, Datacap should be modified to allow recording of such contracts. Datacap should also be modified to enable the recording of a few additional situations in which Crown ownership of IP is justified.

The required modifications are summarized in the following table.

Description	Current Datacap software	Modified Datacap software
Undefined	Other	-
Contract does not generate IP	-	No IP
Contract generates IP owned by contractor	Contractor owns IP	Contractor owns IP
Contract generates IP owned by Crown	Crown exception 6.1 (i.e., Crown owns IP based on exception 6.1 in the Policy)	Crown exception 6.1
	Crown exception 6.2	Crown exception 6.2
	Crown exception 6.3	Crown exception 6.3
	Crown exception 6.4.1	Crown exception 6.4.1
	Crown exception 6.4.2	Crown exception 6.4.2
	Crown exception 6.4.3	Crown exception 6.4.3
	-	Crown exception 6.5
	-	Crown exception 8 (see Note 1)

Note 1 - Under Section 8 of the Policy, the Crown takes ownership of IP in circumstances where it is justified but not provided for in Section 6 of the Policy, and the responsible department has sought and obtained Treasury Board approval for such an exemption.

Date modified:

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