Information Technology Policy
Software Licensing

Number		**Effective Date**	
ITP-SFT001		February 22, 2017	
Category		**Supersedes**	
Software		None	
Contact		**Scheduled Review**	
RA-ITCentral@pa.gov		November 2024	

1. Purpose

This Information Technology Policy (ITP) establishes the policy regarding the licensing, acquisition, and use of Third-Party Software including Commercial Off-the Shelf (COTS), Freeware, and Open Source Software (OSS) by the Commonwealth.

2. Scope

This ITP applies to all entities on or connected to the Commonwealth Enterprise Network including all offices, departments, boards, commissions, and councils under the Governor's jurisdiction (hereinafter referred to as "agencies"). Agencies not under the Governor's jurisdiction are strongly encouraged to follow this ITP.

3. Background

A common misconception is that Freeware, Shareware, and OSS can be used without restriction. However, these software options are usually covered by licensing and usage requirements. Agencies and Office of Administration, Office for Information Technology (OA/IT) must understand and adhere to the requirements that may apply to these software options and implement procedures to monitor their installation, usage, copying, and disposal in accordance with those requirements.

It is important to understand the various benefits and risks associated with the different licensing, acquisition, usage models that apply to each of these software options.

Benefits are usually classified under two main categories: faster implementation and reduced costs. Risks typically include license, subscription, or agreement compliance issues, security exposures, lack of maintenance, support, or transition procedures, and performance or availability issues. Agencies must define and implement mitigation plans to ensure the anticipated savings are realized.

4. Definitions

Best Value: A determination that is made indicating which choice is the most economically advantageous. It is determined through a systematic analysis and comparison of the of the total cost and total benefits of ownership for a group of products or solutions.

Commercial Off-the-Shelf (COTS): Also, referred to as Modifiable Off-the-Shelf (MOTS). Is a targeted business solution software that is commercially produced, easy to install and is then adapted to interoperate with existing system components. An important distinction is that COTS software is locally hosted and is typically more customizable as opposed to Software as a Service (SaaS), which is hosted by a third party and generally less customizable.

Data Subscriptions: A business model in which customers subscribe to access third-party data which is processed or utilized by Commonwealth systems.

Freeware: Software that is unsupported, available free of charge and can be used for an unlimited period of time in a manner consistent with its end-user agreement.

Open Source Software (OSS): Software for which the source code has been made available (according to license terms) for review, modification, deployment, and redistribution.

Shareware: Software that is licensed for free (possibly with restricted use or functionality) for a limited period of time, and payment is expected for full usage or functionality. Types of Shareware may include:

- **Adware** — software packages that generate revenue for their developers by rendering and tracking advertisement in the software's installation and usage, or both.
- **Crippleware** — software packages that disable wanted feature or add unwanted watermarking until the user buys a license.
- **Donationware** — software packages that request a donation to be paid to the author or a third-party beneficiary.
- **Nagware** — software packages that persistently remind the user to purchase a license.
- **Freemium** — software packages offer some features for free while charging a premium for advanced features.

Third-Party Software: Any software or software component created, developed, or owned by a non-Commonwealth entity.

Software as a Service (SaaS): A Cloud Computing Service through which agencies use third-party vendors, licensors, contractors, or suppliers to provision applications running on a cloud infrastructure. The applications are accessible from various client devices through either a thin client interface, such as a web browser or a program interface. The agency does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage, or even individual application capabilities, apart from limited user-specific application configuration settings.

5. Objective

Objectives of this policy include:

- Establishing policy governing the licensing, acquisition, and usage of COTS, Data Subscriptions, Freeware, Shareware, OSS, Third-Party Software, SaaS options and to communicate agency responsibilities regarding these options.
- Ensuring agencies acquire and license software in a consistent manner across the Commonwealth and in compliance with all applicable policies.
- Promoting the use of existing software solutions across multiple agencies where possible.

6. Policy

6.1 Evaluation and Selection

Agencies seeking software solutions shall review the Enterprise Service Catalog to determine if an Enterprise Standard service offering exists. If an Enterprise Standard service offering is identified in the Enterprise Service Catalog, agencies shall adhere to the guidance in *ITP-BUS007, Enterprise Service Catalog* regarding the use of that service offering.

Agencies shall give first preference to software listed as a current product standard in any of the existing ITPs. Agencies that seek an exemption from current product standards shall work collaboratively with OA/IT to submit an IT Policy Waiver as outlined in *ITP-BUS004, IT Policy Waiver Process*.

When evaluating software options, agencies shall ensure the technology solution is selected based on Best Value after careful consideration of possible alternatives.

Agencies shall ensure support costs are considered before approving use of unsupported software. Agencies shall also define and implement mitigation plans to ensure the anticipated savings are realized.

6.2 Licensing

Acquisition or procurement of all software shall be in accordance *with ITP-BUS002, IT Investment Review Process, the Commonwealth Procurement Code (62 Pa.C.S. § 101 et seq.)*, and all applicable procurement policies and processes. Agencies shall also follow *ITP-ACC001, Information Technology Digital Accessibility Policy* to ensure the appropriate accessibility steps are taken during the procurement process.

Prior to the procurement or use of any Third-Party Software or Data Subscriptions, Agencies shall:

- Ensure there is a negotiated software license or subscription agreement in place between the Commonwealth and the publisher.
- Ensure all applicable agreements have been identified, reviewed, and approved (including but not limited to any clickthrough or OSS agreements) as to form and legality if an existing software license or subscription agreement is not in place.

Prior to the procurement or use of any Third-Party Software or Data Subscription,

Agency or OA legal counsel shall:

- Review the terms of the software license or subscription and advise on the potential legal risks associated with use.
- Review the use case and license terms as identified by the agency for potential conflicts with existing license agreements.

If an agreement cannot be established or the terms of the agreement cannot be adequately negotiated, agencies are strongly encouraged to select an alternate software or subscription. In the event that another software or subscription cannot be utilized either because of mandates or business requirements, agencies shall adhere to the process detailed in *OPD-SFT001A, Non-Negotiated Software Agreements*.

Software components and open-source libraries used to construct custom applications shall adhere to the requirements of this policy.

Agencies shall ensure Authorized Users understand and comply with the applicable terms and conditions, such as any software license or subscription agreement, and that relevant training regarding the applicable terms and conditions is provided as part of education and awareness programs.

6.3 Software Contracts

For an agency to purchase software, there must first be a contract vehicle in place to purchase from. Software may be procured from one of the existing resellers on contract or through another contract vehicle. *OPD-SFT001C, Software Contracts* provides guidance on determining if a software is available on contract and how to proceed in instances where it is not.

6.4 Other requirements

Agencies shall ensure that any software or software components are in compliance with all applicable ITPs including, but not limited to:

- Agencies shall adhere to the requirements detailed in *ITP-SEC005, Commonwealth Application Certification and Accreditation* regarding (CA)2 assessments for Internet Facing Web Applications.

- Application logins shall be compliant with *ITP SEC007, Minimum Standards for IDs, Passwords and Multi-Factor Authentication*.

- Agencies shall adhere to Commonwealth standards for applying security related software patches. See *ITP-SEC041, Desktop and Server Software Patching Policy* for details.

- If an application will be hosted outside of the Commonwealth network, agencies shall adhere to the process and requirements detailed in *ITP-SEC040, IT Service Organization Management and Cloud Requirements*.

7.   Responsibilities

7.1 Agencies shall
- Utilize Enterprise Standard Service Offerings and software classified as a Current Standard in ITPs where possible.
- Select technology solutions based on Best Value after careful consideration of possible alternatives.
- Procure and utilize software in accordance with the Commonwealth Procurement Code, and all applicable Commonwealth policies and processes.
- Ensure there is a negotiated software license or subscription agreement in place between the Commonwealth and the software publisher.
- Ensure that prior to the procurement or use of any Third-Party Software the applicable terms and conditions have been approved as to form and legality. **NOTE:** This requirement cannot be waived.
- Address software licensing as part of education and awareness programs.
- Ensure Authorized Users understand and comply with the applicable terms and conditions, e.g., software license or subscription agreement.

7.2 Office of Administration, Office for Information Technology shall:
- Comply with the requirements as outlined in this ITP.

8.   Related ITPs/Other References

- Definitions of associated terms of this policy are published on the Office of Administration's public portal: *http://www.oa.pa.gov/Policies/Pages/Glossary.aspx*
- Commonwealth policies, including Executive Orders, Management Directives, and IT Policies are published on the Office of Administration's public portal: *http://www.oa.pa.gov/Policies/Pages/default.aspx*
- *Management Directive 205.34 Amended, Commonwealth of Pennsylvania Information Technology Acceptable Use Policy*
- *ITP-ACC001, Information Technology Digital Accessibility Policy*
- *ITP-BUS002, IT Investment Review Process*
- *ITP-BUS004, IT Policy Waiver Process*
- *ITP-SEC005, Commonwealth Application Certification and Accreditation*
- *ITP SEC007, Minimum Standards for IDs, Passwords and Multi-Factor Authentication*
- *ITP-SEC040, IT Service Organization Management and Cloud Requirements.*
- *ITP-SEC041, Desktop and Server Software Patching Policy*
- *ITP-SFT000, Software Development Life Cycle (SDLC) Policy*
- *OPD-SFT001A, Non-Negotiated Software Agreements*
- *OPD-SFT001B, Software Licensing Risk Assessment and Acknowledgement*
- *OPD-SFT001C, Software Contracts*
- *Commonwealth Procurement Code (62 Pa.C.S. § 101 et seq.)*

9.   Authority

Executive Order 2016-06, Enterprise Information Technology Governance

10. Publication Version Control

It is the Authorized User's responsibility to ensure they have the latest version of this publication, which appears on https://itcentral.pa.gov for Commonwealth personnel and on the Office of Administration public portal:

http://www.oa.pa.gov/Policies/Pages/default.aspx. Questions regarding this publication shall be directed to RA-ITCentral@pa.gov.

11. Exemption from this Policy

In the event an agency chooses to seek an exemption from the guidance within this ITP, a request for a policy waiver shall be submitted via the enterprise IT policy waiver process. Refer to *ITP-BUS004, IT Policy Waiver Review Process* for guidance.

NOTE: The requirement that terms and conditions to be approved as to form and legality cannot be waived.

This chart contains a history of this publication's revisions. Redline documents detail the revisions and are available to CWOPA users only.

Version	Date	Purpose of Revision	Redline Link
Original	02/22/2017	Base Document	N/A
Revision	02/17/2023	• Updated/added definitions. • Updated objectives. • Reorganized/reworded policy section. • Added guidance related to software evaluation and section. • Added additional detail regarding the steps that should be taken prior to the procurement or use of any Third-party software. • Added policy related to instances where an agreement cannot be established. • Updated references.	N/A
Revision	11/27/2023	• Added definition and policy for Data Subscriptions • Removed duplicate language between policy and OPD. • Clarified that the requirement for terms and conditions to be approved as to form and legality cannot be waived. • Removed third party vendors from responsibilities section as this policy is would not be applicable to them. • Added reference to the Commonwealth Procurement Code and new supplemental documents OPD-SFT001B and OPD-SFT001C.	Revised IT Policy Redline <11/27/2023>