

Information Technology Executive Council (ITEC)

ITEC-1100-P

1.0 TITLE: Software Use and Licensing

1.1 EFFECTIVE DATE: October 26, 2000

1.1.1 Revised Date: June 20, 2023

1.1.2 TYPE OF ACTION: Update

2.0 PURPOSE: To recognize requirements established by copyright laws and licensing agreements for procuring, using, installing, downloading, and copying of software and documentation. To also provide standards through ITEC-1100-S for commonly encountered situations in this area.

2.1 Legal Disclaimer - The information contained in this policy is for general guidance to support the policy. The application and impact of laws can vary widely based on the specific facts involved. Given the changing nature of laws, rules and regulations, there may be omissions or inaccuracies in information contained in this policy. Accordingly, the information in this policy is provided with the understanding that the authors and publishers are not herein engaged in rendering legal advice and services. As such, the information should not be used as a substitute for consultation with professional legal advisers. Before implementing this policy, or pursuing any of this material, always consult your entity's counsel.

3.0 ORGANIZATIONS AFFECTED: All Branches, Boards, Commissions, Departments, Divisions and Entity of state government, hereafter referred to as entities.

4.0 REFERENCES:

4.1 [K.S.A. 75-7203\(a\)](#) authorizes the Information Technology Executive Council (ITEC) to adopt information resource policies and procedures and provide direction and coordination for the application of the state's information technology resources for all state entities.

4.2 [United States Copyright Act](#) (Title 17 United States Code)

4.3 [United States Patent Law](#) (Title 35 United States Code)

4.4 [United States Trademark Law](#) (Title 15 United States Code)

4.5 [State of Kansas ITEC-1500-P](#) -- Ownership of Software Code and Related Intellectual Property

4.6 [State of Kansas ITEC-7230-P](#) – Information Technology Enterprise Security Policy

5.0 DEFINITIONS:

5.1 License – The owner of a copyright has the exclusive right to reproduce, modify (create “derivative works”), distribute, perform, and display the item in which the owner holds the copyright. Patent and trademark owners have similar rights. The owner of a copyright may authorize others to exercise these rights, usually through the granting of a license.

- 5.2 Open-Source Software (OSS) – Computer software that is released under a license that allows users to use, inspect, modify, enhance, or redistribute the source code.
- 5.3 Strict Liability – Copyright infringement is a violation of both civil and criminal law. Infringement is not mitigated by a claim of ignorance. Following a rule that you believe to be true, which turns out to be untrue, will not excuse the entities from liability infringement.
 - 5.3.1 Exceptions – The U.S. Copyright Act does permit limited exceptions and the owner of a copyright may provide for more liberal uses through the license agreement. Please refer to the U.S. Copyright Act for details.
- 5.4 End-of-Life (EOL) – applies to both computer hardware and software, is the stage of a product in which it becomes outdated or unsupported by the manufacturer. An end-of-life announcement by a vendor stipulates when the manufacturing will end, or if already ended, how far into the future support for the product will be provided.
 - 5.4.1 Orphaned Software – Software that is abandoned or considered no longer used by the entity and no longer supported by the vendor or software developers who own the source code of the application.
- 5.5 End-User License Agreement (EULA) - Is a legal contract between a developer or owner of software to the end-user or customer. EULA specifies in detail the rights and restrictions which apply to the use of the software.
- 5.6 Software as a Service (SaaS) - Is a software licensing and delivery model in which software is licensed on a subscription basis. SaaS is also known as "on-demand software" and Web-based/Web-hosted software.
- 5.7 Platform as a Service (PaaS) - Is a category of cloud computing services that allows customers to provision, instantiate, run, and manage a modular bundle comprising a computing platform and one or more applications.
- 5.8 Infrastructure as a Service (IaaS) - Is a computing service model by means of which computing resources are supplied by a service provider. The provider allows dynamic scaling of essential resources such as storage, memory, CPU, and network resources in a virtually hosted environment.
- 5.9 Authorized personnel - Any appropriately identified individual with a requirement to have elevated security access and or administrative rights to perform IT tasks that are outside normal user functions.

6.0 POLICY:

- 6.1 All entity-used software shall be properly licensed if the entity is not the copyright owner.
 - 6.1.1 Any software purchased with entity managed funds for use in conducting entity business shall be licensed in the name of the entity making the purchase.
 - 6.1.2 Based on the terms of agreement, the licensed entity will be responsible for ensuring all terms and conditions are followed.

- 6.2 All entity-used software shall be protected against loss and unauthorized copying, installing, downloading, and accessing.
- 6.3 Software purchased from third parties is licensed, not owned. State of Kansas will use such software in compliance with the contractual terms and conditions, or End User License Agreement (EULA). All entities, employees, affiliates, and users of licensed software shall honor applicable law and license agreements (see “Strict Liability” as defined above.) This includes, but is not limited to, business systems provided by third parties that are accessed via the internet such as Software as a Service (SaaS), Platform as a Service (PaaS), and Infrastructure as a Service (IaaS). Refer to ITEC-1500-P for ownership of software code in these areas.
- 6.4 State of Kansas, or the entities, owns the rights to internally developed software but may still be bound by terms and conditions relating to elements owned by third parties (including Open-Source Software). These terms and conditions shall be documented, and internally developed software will be used in compliance with such terms.
 - 6.4.1 State of Kansas reserves the right to customize or modify software but may be bound to the terms and conditions of Open-Source Software, Commercial Off the Shelf applications or third party owned applications. The terms and conditions of these application sources will be documented and stored in the entity’s software management tool.
- 6.5 Software products are governed by license agreements between the respective entities and the relevant software publisher.
- 6.6 Software no longer required will be decommissioned and installations removed. Copies and packages will be archived or destroyed in compliance with the End User License Agreement (EULA) requirements. Software subscriptions, maintenance and support agreements shall be canceled or terminated as appropriate. All entities’ data must be returned to the entity and removed from vendor systems. Confirmation of removal shall be obtained upon termination of services.
- 6.7 End-of-life (EOL) licensing – entities shall ensure that software is properly licensed throughout the period of use. Entities shall conduct an IT security assessment through their respective IT security provider to document and develop a risk mitigation strategy for software that will continue to be used after EOL.
- 6.8 Software Maintenance and Support - entities shall (a) maintain the software (including both third party and open-source software) and support all updated, new, replacement, add-on, or next generation versions and releases, (b) provide all maintenance services necessary to keep the software in good working order and free from defects, (c) provide all maintenance services necessary to keep the software in conformance with the warranties. Maintenance will be performed according to the entities’ documented Vulnerability and Patch Management Process (refer to ITEC-7230a-P, Section 13.5).
- 6.9 Software Acquisition and Installation – software acquisitions, installations, deployments, modifications, or specific provisions are to be performed by authorized personnel only. The ability to download and install software is limited to authorized personnel who have elevated privileges or administrative rights to IT systems. Users who have been granted

elevated privileges or administrative privileges for downloading and installing software must ensure that any software downloaded and installed is appropriately licensed and managed in compliance with the license terms.

6.10 Software Inventory - A software inventory must be established by all entities to track the acquisition and assignment of all software, media, licenses or end user license agreements, documentation, and related items acquired by the entity. Each entity shall be responsible for updating the software inventory to identify orphaned software.

6.11 Open-Source Software (OSS) Use and Licensing - open-source software is considered as commercial software and should comply to laws, regulations, IT security and other policies regarding commercial software.

6.11.1 State entities are required to develop and maintain an Open-Source Software Management Plan. This plan should include an inventory of all OSS development, source code repository location, on-going support plan (including IT security and vulnerability management, disaster recovery and business continuity) and the business use case for each OSS. Refer to ITEC-1100-S Attachment A Software End of Life Management Plan.

6.11.2 Prior to starting any development or procurement process involving OSS, state entities should document the licensing terms in Open-Source Software Management Plan.

7.0 RESPONSIBILITIES:

7.1 Heads of entities are responsible for establishing procedures to ensure their organization's compliance with the requirements of this policy. Before implementing this policy, or pursuing any of this material, always consult your entity's legal counsel.

7.2 The Chief Information Technology Officer, Executive Branch, is responsible for the maintenance of this policy.

8.0 CANCELLATION: Replaces all previous versions of this policy.

9.0 HISTORY: Policy was enacted on October 26, 2000; updated on January 24, 2008 and updated again on June 20, 2023.