

For information

Legislative Council Panel on Financial Affairs

**Protection and Use of IP Rights of
Government IT Systems and Software**

At its meeting held on 6 May 2002, the Legislative Council Panel on Financial Affairs asked for information on how the Government protects and uses the intellectual property (IP) rights of the IT systems and software developed by outside companies for the Government.

2. To protect the Government's interest in the IP rights of the systems and software developed by outside companies for the Government, a clause on "IP Right" is normally included in Government IT contracts for strict compliance by the outside companies, i.e. the contractors engaged to develop the systems or software as well as their sub-contractors or agents engaged in carrying out the IT projects. The clause stipulates that the ownership and all rights of whatever nature in source code, data, software, documents and other materials developed by the contractor and its sub-contractors or agents in performing the services under the contract shall be and all times remain vested in the Government. The clause also provides that if there is any infringement of Government's IP rights, the Government can terminate the contract and claim damages from the contractor.

3. The Government is now exploring the feasibility of licensing contractors engaged by the Government to develop systems or software for Government use to further sub-license the systems or software so developed for use by other parties. Through such licensing arrangements, the costs of developing systems and software for the Government may be reduced as potential contractors may, taking into account the possible additional revenue which may arise from the sub-licensing arrangements, lower the prices in their bids for the contracts. Through charging for the sub-licensing arrangement, the Government may also be able to generate additional revenue. This may also create

more business opportunities for the local IT industry as the systems or software so developed and used by the Hong Kong Government would provide good track record that would help the contractors market and sub-license such systems and software to their other clients locally or overseas.

4. This initiative is now being studied in detail by the relevant bureaux and departments. Issues that need to be considered include potential liability of the Government to other parties in relation to the use of the sub-licensed systems or software by such parties, whether such sub-licensing arrangements would compromise the security of Government IT systems, and whether the financial benefits to be generated would outweigh the additional administrative costs incurred in implementing the sub-licensing arrangements, etc.

**Information Technology and Broadcasting Branch
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