# Agency IP policy and procedures checklist

**About this checklist:**

* Agencies are required to ensure there are internal policies and guidelines in place to meet the intent, responsibilities and obligations outlined under the WA Government IP Policy.
* This checklist is a guide to assist agencies developing intellectual property (IP) policies and procedures.
* Any information identified in **bold** corresponds to recommendations under the [**WA Government IP Policy**](https://www.wa.gov.au/government/publications/western-australian-government-intellectual-property-policy-2023)[[1]](#footnote-1).

**Policy objectives**

Outline the key objectives of the agency’s IP policy.

*For example to support the effective identification, management and use of agency IP for the benefit of the Western Australian community.*

Outline the agency’s functions and the role of IP in achieving these objectives.

*This may include information about any agency specific legislation related to the development, use or commercialisation of IP.*

**Policy scope**

Identify who the policy applies to, including any application to consultants, contracted or related parties.

**Key roles and responsibilities**

Identify who has overarching responsibility for ensuring the agency meets its obligations under the WA Government IP Policy.

Unless otherwise delegated, the WA Government IP Policy provides that the Director General or the Chief Executive Officer to ensure that the IP Policy is considered in the management of IP within their agency.

Set out the roles and responsibilities related to IP management for key positions and business areas within the agency.

**Clearly identify the key decision-making authorities required for IP decisions and approvals.**

The WA Government IP Policy specifically identifies decision making or approval requirements for the following:

* Joint ownership arrangements for IP assets,
* Undertaking of commercialisation activities,
* Commercialisation revenue sharing arrangements,
* The disposal of IP that is confidential, sensitive or incorporates licensed third party IP.
* The reward of employees who develop significant, inventive and valuable IP.

**Management and protection of IP**

**The policy should set out processes to identify and register IP owned, controlled and used by an agency. Processes to be addressed include:**

**The identification of IP developed by employees, contractors, collaborators and researchers.**

**The maintenance of a register of IP assets with financial, operational, strategic or public value.**

*Consideration: the agency may wish to include guidance notes to assist in the assessment of ‘significant IP’ for inclusion in the register. Refer to the guidance in Section 5 of the IP Policy.*

**Periodic review and audit of IP assets.**

Set out any requirements or processes with respect to the assessment, registration and management of IP protections.

Identify the process to be followed where the agency’s IP rights are infringed.

*For example: how will be instances of possible infringement be reported, who will responsible for taking action and what actions will the agency consider.*

**Section 5** of the **WA Government IP Policy** sets out a number of requirements for agencies related to the protection of IP assets and enforcement of IP rights.

**Ownership arrangements**

Establish procedures to identify, record and clarify ownership of agency IP.

Provide guidance the agency’s IP ownership arrangements for relevant settings such as:

Employment and secondment contracts which are likely to include research functions, duties to invent or innovate or result in the creation of IP.

Contractors and suppliers.

Collaborative research projects and joint initiatives that are likely to result in the creation of IP.

Funding and grants.

*Consideration: agency policies should reinforce the requirements of the WA Government IP Policy to ensure IP ownership and rights are clearly addressed in all relevant agreements and contracts.*

Set out processes for the review of ongoing IP ownership arrangements.

*Consideration: these processes may be linked to the periodic review and audit of the agency’s IP assets.*

**Sections 4 and 7** of the **WA Government IP Policy** provides guidance regarding the assignment of ownership in different settings and factors for determining ongoing ownership arrangements. The [**Guide for Ownership of WA Government IP**](https://www.wa.gov.au/government/document-collections/western-australian-government-intellectual-property-policy-agency-toolkitps:/www.wa.gov.au/government/document-collections/western-australian-government-intellectual-property-policy-agency-toolkit) may assist agencies developing supporting policies and procedures.

**Commercialisation**

Outline the processes for commercialising agency IP assets. Issues to consider may include:

How employees will identify and report IP with commercial potential.

Who will be responsible for the assessment of commercialisation opportunities?

The key issues to be assessed when considering whether it is appropriate to commercialise the agency’s IP.

The key considerations for the assignment or licensing of IP to third parties to develop and/or commercialise the IP.

Requirements to seek relevant legal and expert advice to support commercialisation activities.

Who is responsible for making decisions regarding the commercialisation of agency IP?

**Section 6** of the **WA Government IP Policy** provides guidance regarding the commencement and pursuit of commercialisation activities. The [**Guide for Commercialising WA Government IP**](https://www.wa.gov.au/government/document-collections/western-australian-government-intellectual-property-policy-agency-toolkitps:/www.wa.gov.au/government/document-collections/western-australian-government-intellectual-property-policy-agency-toolkit) includes a suggested process that may be used as starting point to develop agency policies and procedures.

**Include procedures for:**

**Handling the net proceeds of commercialisation.**

*Consideration: this may include any options for benefit sharing arrangements with the inventor(s) of the IP and the business unit which originated the IP.*

**Seeking a Treasurer’s authorisation to retain revenue under the Financial Management (Net Appropriations) Determination 2022 when required.**

**Disposals**

Outline the process for disposing of agency IP assets. Issues to consider may include:

When will the disposal of IP be considered.

What factors will be considered as part of the assessment process.

Who is responsible for making decisions regarding the disposal of IP assets?

References to any of relevant agency policies and guidelines related to the disposal of assets.

**Section 7** of the **WA Government IP Policy** provides guidance regarding the disposal of IP assets.

**Training and employee support**

**Include procedures to ensure employees are aware of their obligations in relation to IP and confidential information.**

Set out training requirements for agency employees.

The WA Government IP Policy requires agencies to:

* Provide suitable training to employees regarding IP related issues;
* Disseminate information to employees relating to the State’s ownership of IP and their obligations of confidence related to IP development and use.
* Implement measures to ensure compliance with this Policy, any enabling legislation, other Government policies and any agency level policies and procedures.

**Recognising employee contributions**

**The implementation of Section 8 of the WA Government IP Policy relating to employee recognition for IP creation is at the discretion of the agency.**

The agency may develop guidelines, procedures and policies to provide for non-monetary rewards and incentives, which comply with the intent and principles of the WA Government IP Policy.

The requirements for the payment of any monetary rewards are set out in Section 8 of the WA Government IP Policy. The agency may adopt internal policies and procedures to support the implementation of these requirements.

The agency may decide to address employee rewards in the IP policy or as a stand-alone document.

**Further information**

* **WA Government IP Policy: Section 8** – Employee recognition for IP Creation.
* [**Guide for Rewarding Innovative WA Public Sector Employees**](https://www.wa.gov.au/government/document-collections/western-australian-government-intellectual-property-policy-agency-toolkitps:/www.wa.gov.au/government/document-collections/western-australian-government-intellectual-property-policy-agency-toolkit) (includes a checklist for developing an employee rewards policy).

1. WA Government Intellectual Property Policy (2023). [↑](#footnote-ref-1)