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Guidelines of the Director of the Government Information and Communication Technologies Authority

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| **Guideline Title: Policy for Publicizing State-Owned Code** |
| Primary Chapter: Open-Source Governance | Guideline No. 7.3.01 | In effect since April 1, 2018 |
| Secondary Chapter: Open-Source Code | Version No. 1.0 |

# Powers of the Government Information and Communication Technologies Authority

* 1. Government Resolution 2097, passed on October 10, 2014, expanded and redefined the goals, powers, and roles of the Government Information and Communications Technologies Authority and its director. As part of the powers and roles that were defined, the following was determined: “The Government Information and Communications Technologies Authority shall be responsible for setting standards in the fields of information technology and assistance in implementing them in the information-systems departments in the government ministries and their subordinate units” (Paragraph 3b).

# Target Audience

* 1. Managers in the Government Information and Communication Technologies Authority.
	2. Managers of the departments responsible to the Government Information and Communications Technologies Authority.
	3. Employees in charge of cyber defense and security managers in the government ministries.

# Purposes of the Guideline

* 1. To regulate the manner in which software code owned by government ministries is made available to the public as open-source code.
	2. To define the process of making code available to the public while minimizing the potential damage to information security.
	3. This guideline does not address the process of putting the open-source code to use in the government ministries. This process is regulated in Guideline No. 7.3.02, Usage Policy for Open-Source Code Solutions.
	4. This guideline is a government policy document. All its content is therefore binding upon the target audience.

# Definition of Concepts

* 1. Authority — The Government Information and Communication Technologies Authority.
	2. Guideline — A guideline of the director of the Government Information and Communication Technologies Authority.
	3. Ministry — A government ministry or subordinate department.
	4. A subordinate unit of the Government Information and Communication Technologies Authority — A unit in the organization that is guided by the Government Information and Communication Technologies Authority in accordance with the government’s resolutions, such as the Information Systems Division and the Cyber Defense Unit.
	5. The Chief Information Officer (CIO) — The chief information systems officer/director of the Information Systems Division.
	6. Open-source software — Computer software whose owners have made its source code accessible to the general public and given them the right to view, use, update, and distribute it to others, subject to open-source license restrictions in accordance with the conventional definition of such a license (see, for example, https://opensource.org./osd). The primary purpose of open-source software code is the development of the software by people in partnership, thus contributing to the improvement and benefit of all the developers who use it.
	7. Open-source use license — An open-code license, according to its conventional definition (see, for example, https://opensource.org.osd), which also states that the public may make use of the software code (and derivative works) without payment, subject to the conditions stipulated in the license. The license lists the rights and obligations of each person who takes the software code and changes, uses, or expands it.
	8. Code-sharing platform — An environment that supports the open-source that enables publication, management, and critique of versions of the software, among other things, which has been approved as such by the director of the Government Information and Communication Technologies Authority or anyone appointed by the director for that purpose.

# Policy

* 1. The Government Information and Communication Technologies Authority encourages the government ministries to release state-owned software code under an open source license for the public to use in all places where it meets the criteria listed in this guideline.
	2. Releasing the code as open-source code means renunciation of the right to prevent use of the software code (as long as such use meets the conditions of the open source license), including the right to demand payment for such use. The Finance Ministry’s accountant general has authorized the aforesaid renunciation, subject to its meeting the criteria set forth in this guideline.
	3. The purpose of this policy is to enable the release of the code that was developed in government ministries, whether by government employees or by service providers. In some cases, publication of the code of the software systems that were purchased may be permitted. In any case, the release of the code shall be subject to the committee’s approval, as stipulated in Paragraph 6.6.
	4. Saving on development costs, improvement of the quality of the code, enriching the code that is in use, saving on the purchase of licenses, and receiving feedback from the developer community, in order to improve the code and spot vulnerabilities, are among the benefits of releasing the code.
	5. Portions of the project or system that are published shall be unclassified only.
	6. The publication of the open-source code shall be done in a manner that prevents harm to the components of information security and cyber defense.
	7. The legal aspect, property rights, and licenses:
		1. This guideline deals exclusively with releasing code whose intellectual property rights, particularly its copyright as set forth in the Copyright Act of 2007, are owned by the state. When there is doubt as to the identity of the owner of the intellectual property rights of the software code, the ministry’s legal bureau must be consulted.
		2. Sharing the code that has been developed based on open-source code:

When software developed by or for the state on the basis of original code that is based on open-source code, there is room for a precise examination of the issue of copyright ownership of the code that was developed, as well as the obligations that devolve upon the user of the code according to the license to use the code. In this context, a distinction must be made between the various kinds of typical licenses of open-source code:

* + - 1. A license that permits the purchase of intellectual property rights of derivative works *on the basis of the original code (changes and adaptations that have been made in its content) without imposing substantial restrictions* upon the use of the code. An example of this is the Creative Commons License, which applies to products such as Analytics Reporter. As a rule, in such a case the code that was developed is state-owned, and subject to no substantial restrictions on its release to the public under an open-source license, which shall be done according to the judgment of the ministry that developed the code, subject to the instructions set forth in this guideline.
			2. A license that allows the purchase of the intellectual property rights of derivative works that were created *on the basis of the original code, with a commitment to make derivative works created on the basis of the code available to the general public in certain cases,* under the conditions of the same license — for example, a license of the type GNU Affero General Public License v.3 (AGPL v3), which applies to products such as CKAN or OpenEMR. This license requires the holder to make derivative works based on the code that operate on a server to users who interface with the server using a computer network (as long as the software enables such an interface), under the conditions of the license. In such a case, releasing the code under the conditions of the open-source license is not a choice of the ministry, but the *fulfillment of an obligation that the ministry imposed upon itself* when it chose to develop software on the basis of a software product that was subject to such a use license. Accordingly, *this guideline does not apply to cases of this sort,* since, as stated, they do not reflect a choice to release code, but rather the fulfillment of an obligation to do so. In addition to this, the choice to develop on the basis of a software product that is subject to this sort of user license is subject to Guideline No. 7.3.02 — Policy of Use of Open-Source Code Solutions.

In any case, it must be ascertained that the release of the code that was developed on the basis of open-source code is done in accordance with the conditions of the license according to whose conditions the open-source code intended for release in accordance with this guideline was developed. For example, if code that was derived from open-source code released under a GPL license is made accessible, it must be ascertained that the conditions of the release meet the requirements of the relevant version of the GPL license according to which access to the original code was granted.

# Publication Process of the Project/Code System to the Public

* 1. The security officials of the ministry publicizing the code must confirm that the code and the database schema have undergone a redaction process in which items that might compromise information security or privacy have been removed. Among these items, the following subjects should receive particular emphasis:
		1. Authentication/identification information (including usernames) contained in the code.
		2. Names of servers where the code to be publicized has been used.
		3. IP or DNS addresses that are not public.
		4. System/network architecture.
		5. Sensitive information — any sensitive information, such as:
			1. Names of office-holders
			2. E-mail addresses
			3. Business information
			4. Systems settings that have to do with information security
			5. Dedicated code that serves as a component of defense and is defined as classified
			6. Systems/Infrastructure Hardening
	2. Use of an open-source code-sharing platform — At this stage, in order to encourage adoption of this policy, this subject shall be given a major role and a user account shall be given to the ministries by the Government Information and Communication Technologies Authority. Publication of the code on the sharing platforms shall be done by users who represent the ministry, who shall be given the option of publishing the code of that ministry.
		1. A two-step verification process shall be established for these users.
	3. The ministry that is publishing the code must choose the type of open-source license that shall apply to the published code. Generally, the Government Information and Communication Technologies Authority recommends an AGPLv3 license, since it is usually the strictest in terms of requiring future users of the code to return any change that they have made in the original code to the public. In any case, the stipulation that the code, and any works derived from it, may be used without payment should be defined as part of the conditions of the license, and it should also be stated that the code is released as is, and that the state shall have no liabilities concerning it.
	4. The ministry must document the published code in order to retain the option of research, if necessary, and comparison to code published in the past.
		1. The documentation that is to be done as part of the code must be in English.
		2. We recommend that additional information about the system (not as part of the code) be documented in English in order to allow publication to a wider public.
	5. As far as possible, we recommend carrying out an audit of the published content from time to time to ascertain that the initial original code that was uploaded as a basis for changes has not undergone any changes itself, so that a distinction may be made between the original code and changes that were made on its basis.
	6. *An approval committee for the government ministries:*
		1. An approval committee for the government ministries is hereby established for the purpose of enabling government ministries to carry out the policy of releasing software code under an open-source user license in a controlled and intelligent manner.
		2. The director of the Government Information and Communication Technologies Authority, or his representative, shall be the chairman of the committee. A representative of the accountant general, in charge of intellectual property, and the head of the government’s cyber defense unit, or his representative, shall be members of the committee. The director of the Government Information and Communication Technologies Authority may add additional members to the committee. The committee’s decisions shall be unanimous. The quorum necessary for making decisions shall be the director of the Government Information and Communication Technologies Authority, or his representative, and the representative of the accountant general.
		3. A ministry that would like to publish code in accordance with this guideline must obtain the committee’s approval in order to publish the code.

# Reusing Code That Has Been Released as Open-Source

* 1. Any re-acceptance of code after it has been released to the public as open-source code and changed shall be in accordance with the process of accepting open-source code as set forth in Guideline 7.3.02 of the Government Information and Communication Technologies Authority: Policy Regarding the Use of Open-Source Code Solutions.
	2. As part of this process, emphasis shall be placed upon the process of information security inspections for accepting the code, as set forth in the above-mentioned guideilne.

# Applicable Documents

* 1. None.

# Appendices

* 1. None.

# Guideline Versions

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| No. | Status | Nature of the change | Paragraphs affected | In effect from | Written by | Approved by |
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