



# FACT SHEET

Date: **November 29, 2011**

Report: **2011-106**

**The California State Auditor released the following report today:**

## **Intellectual Property**

*An Effective Policy Would Educate State Agencies and Take Into Account  
How Their Functions and Property Differ*

### **BACKGROUND**

Publications, maps, photographs, logos, and inventions are just a few examples of intellectual property created by California state agencies. It is important for state agencies to manage and protect the property interests in the work they create to prevent unauthorized or inappropriate use of those items. Federal, state, and common law provide intellectual property owners with some protections for copyrights, trademarks, patents, and trade secrets. In November 2000, we reported that state-level guidance for administering intellectual property was limited.

### **KEY FINDINGS**

During our recent review of the State's management and protection of intellectual property, we noted the following:

- Although we recommended in November 2000 the need for statewide guidance for managing and protecting the State's intellectual property, there is still very little guidance available to state agencies.
  - ✓ Eight legislative proposals related to state management of intellectual property have not been enacted. The Legislature did not pass seven of the bills, and a former governor vetoed one.
  - ✓ The four control agencies—the Department Finance, the Department of General Services (General Services), the State Controller's Office, and the California Technology Agency—have not provided such policies or guidance to other state agencies because they do not believe it is their responsibility.
- More than half of the 211 state agencies that responded to our survey indicated that guidance from the State regarding intellectual property is needed.
- Although General Services provides agencies with standard language related to intellectual property for information technology contracts, it does not include such language in other types of contracts. Thus, agencies may not include appropriate provisions regarding ownership, which could lead to the loss of state control over valuable intellectual property.
- The four state agencies we reviewed had limited written policies and relied on informal practices to manage and protect their intellectual property. Further, the agencies differed in the amount and type of intellectual property they owned, and in how they addressed their intellectual property rights.

### **KEY RECOMMENDATIONS**

We make several recommendations to the Legislature and the governor including that they consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights. This policy should provide agencies guidance in identifying potential intellectual property while providing them with flexibility regarding ownership of the rights. Also, to those state agencies we reviewed, we recommend they prepare written policies and procedures to ensure their staff can identify, manage, and protect their intellectual property.

