

POLICY ON THE PRICING FOR AND COPYRIGHT OF SPATIAL INFORMATION PRODUCTS AND SERVICES

1. Introduction

The policy on the pricing for spatial information and services provided by the public sector must support the Government's strategic objective of improved access to information. The high cost of such products and services are seen as an effective barrier to the access to such information for the majority of the people. The aim of such policy must not be to achieve cost recovery from users, but to make spatial information and services more accessible, affordable, and ultimately more effective and efficient. The purpose is to have a uniform policy in the public sector on pricing of spatial information and services.

2. Background

The provision of spatial information products and services by the public sector is subject to the provisions of the Promotion of Access to Information Act, 2000 (Act 2 of 2000). This requires all departments and other public institutions to provide information and copies of records on a non-profit basis and strongly influences the pricing policy for such products and services.

Spatial information refers to information (or data) about the geographical location and descriptive attributes of natural or human-made features or phenomena. Information generally found on a map is regarded as spatial information..

Various departments are responsible for the provision of spatial information products and services in terms of the Spatial Information Bill and other legislation governing the activities of those organisations.

Without relevant and accessible spatial information there can be little or no sustainable development. Spatial information, and specifically framework data, is a valuable national resource essential for orderly and sustainable development.

The general and varied setting of prices and other conditions of supply are cause of many of the frustrations of users of spatial information and services supplied by the various department.

3. Purpose of the policy on the pricing for spatial information products and services

The purpose of this policy is to ensure that informed decisions can be made regarding the pricing of spatial information in the public sector and that there is consistency in the application of the pricing policy within the public sector.

The Committee on Spatial Information (established in terms of the Spatial Information Bill) has an important role in coordinating the framework data, maps, systems and standards required to maximise the usefulness of spatial data/information collected by all levels of government in South Africa and indeed by the private sector. Properly carried out, this mandate would lead to consistent, compatible and interoperable data sets.

The current pricing and licensing practices of the various public sector organisations has prevented this from occurring with the result that almost all municipalities, most provincial and even State Departments spend some level

of resources to develop duplicate spatial information. These existing policies are based on the previous emphasis on cost recovery, user-pay principle etc, equating the percentage of “cost recovery” to “value of service delivered to the public”. Today, service delivery in itself is the aim and the reason for the existence of the public sector organisations. The ability to pay must not be used as an effective barrier to deny access to services to a user or user group. In essence, the pricing policy of the public sector must provide for equitable access.

4. Policy content

There are two distinct categories of spatial information products and services provided by departments. Firstly, it is those products which are regarded as generally available from the department. These are listed in a schedule of the Promotion of Access to Information Act by the Minister of Justice and revised annually. Copies of cadastral diagrams and maps, topographic maps, aerial photographs and administrative boundaries (such as political boundaries and enumerator areas) would fall, amongst other products, in this category. The second category would consist of products and services which the department customises, on specific request, for the client and which are not generally available (also referred to as value-added products and services).

4.1 Generally available products and services

The principles guiding the policy on the pricing of such products and services need to be consistent with the provisions of Act 2 of 2000, basically charging the user what it costs the department to make the information available to the client in the requested format. This main principle will be **COFUR (Cost of Fulfilling User Request)**.

The “COFUR” policy is to be used in the public sector to determine prices for generally available spatial information products and services (also referred to as standard products). For the purposes of this policy document, COFUR means that the pricing structure for spatial information is based on recovering the costs for making the required copy, preparing for dispatch, postage and packaging.

It needs to be kept in mind that the cost to the department to make a staff member and workstation available at a public counter or other service centre is regarded as one of the functions of the department, i.e. service delivery. Thus these services are fully funded by moneys allocated to the department by Parliament and need not be “recovered” from the clients that happen to come to the counter – these costs should therefore not be regarded as part of COFUR.

The new price structure will encourage small business and non-traditional users of spatial information to become involved in the spatial information industry, especially in the field of value-added services.

In terms of Act 2 of 2000, the State (in general) is not excluded from paying charges determined under this policy.

4.2 Special products and services

Products and services falling into this category are not generally available and are of use only for that specific client. The client who requests such services from the department needs to be made aware that any costs incurred by the department in the provision of the requested special product or service will be to the client’s account.

These costs would include the direct costs incurred, additionally, in providing this specific product or service. The pricing would generally be determined in the terms and conditions of a service level agreement between the requester and the department or through the approved fees of office.

With the consent of the Department of the National Treasury, discounts could be contemplated for such special products and services.

5. Copyright and ownership

The spatial information products and services originated by the State are protected in terms of the Copyright Act, 1978 (Act 98 of 1978). As the State President is the holder of State copyright, all organs of State enjoy unhindered use of the spatial information products and services of other organs of State, without a need for further permission to copy in terms of that copyright.

Where a copy of a spatial information product is made available to any third party outside the State, that private sector client must be made aware of the existence of State copyright and ownership of that information by the State.

Any person or private sector organisation using spatial information products and services, or parts thereof, originated by the State (i.e. State copyright exists) may use such products and services without obtaining specific authorisation. State copyright must, however, be acknowledged by such person or organisation. A suitable statement to this effect with the applicable currency date or edition date of the data/product (e.g. State copyright acknowledged for Source : Statistics SA, 1996) must be included with such product, irrespective whether it be in digital or printed form.

The State (through the respective department) retains the full ownership of its information, products and services at all times – access to information does not give ownership of the information to the client.

6. Royalty Fees

In terms of the Promotion of Access to Information Act, 2000 (Act 2 of 2000), no royalty fee will be payable on standard products/services or records where the price of the product is based on the COFUR price formula.

7. Liability

The following liability clause should accompany digital data which emanates from a department or any of the designated components including service providers responsible for the dissemination of spatial information:

“The (*insert name of public organisation*) will not be liable for any damages or losses, except to the extent that such losses or damages are attributable to a breach by the (*insert name of public organisation*) of its obligations in terms of an existing agreement or to the negligence or willful act or omissions of the (*insert name of public organisation*), its servants or agents, arising out of the supply of data and or digital products in terms of that agreement. The user indemnifies the (*insert name of public organisation*) against any claims of whatsoever nature (including legal costs) by third parties arising from the reformatting, restructuring, reprocessing and/or addition of the data, by the user”.

8. Renewal

This policy will be reviewed by the Committee on Spatial Information as and when required. There is a requirement to review this policy as the mix of public and private benefits derived from spatial information/data sets changes

from time to time. Inconsistencies in cost recovery practices in the public sector must be addressed should it still exist after the implementation of this policy.

9. Legal support for this policy

- Spatial Information Bill
- Copyright Act, 1978 (Act No 98 of 1978)
- Promotion of Access to Information Act, 2000 (Act No 2 of 2000)
- Other legislation specific to the mandate of the public organisation(s)

Prepared by Sub-committee on Policy (Committee for Spatial Information)

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POLICY ON THE PRICING FOR SPATIAL INFORMATION

MAIN POINTS:

- To provide for a uniform policy in the State
- Alignment to the principles of the Promotion of Access to Information Act
 - access to records and information
 - public entity not to make profit
 - charge only for 'copy' costs
- Principle of affordability
- Spatial information products and services generally available are a public good paid for from the fiscus
- Pricing based on cost model:
 - Generally available (or standard) products and services
 - Cost of fulfilling user requirement (COFUR)
(direct costs of reproduction, media, packaging and postage)
 - Special (Value-added) products and services
 - At direct cost of specific product or service
(direct cost incurred additionally)
- Can have discounts on specific products and services for special cases
- Copyright vests in the State
- Ownership vests in the originating public organisation
- No royalties payable on standard products and services
- Liability exclusion for spatial information