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GENERAL NOTICE


NOTICE 501 OF 2013

SPATIAL DATA INFRASTRUCTURE ACT, 2003 (Act 54 of 2003)

PUBLICATION OF AN INVITATION TO COMMENT ON THE DRAFT CUSTODIANSHIP POLICY AND THE POLICY ON THE PRICING OF SPATIAL INFORMATION PRODUCTS AND SERVICES

I, Gugile Ernest Nkwinti (MP), Minister of the Department of Rural Development and Land Reform, hereby publish the draft Custodianship Policy and the Policy on the Pricing of Spatial Information Products and Services for public comments in support of the Spatial Data Infrastructure Act, 2003.

This notice is hereby published for comments. All interested persons and organizations are invited to comment on this notice in writing, and to direct their comments within 30 days of publication of this notice to: The Director General, Department of Rural Development and Land Reform, Private Bag X 833, PRETORIA, 0001 for attention of Ms Martha Maroale Chauke, Tel No (012) 312-9643. Email: mmmchauke@ruraldevelopment.gov.za



Nkwinti, GE (MP)

Minister of the Department of Rural Development and Land Reform



COMMITTEE FOR SPATIAL INFORMATION

(in terms of the Spatial Data Infrastructure Act, 2003 (Act No. 54 of 2003))

POLICY ON PRICING OF SPATIAL INFORMATION PRODUCTS AND SERVICES

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Definitions and Abbreviations

All terms in this policy are consistent with their meaning in the SDI Act and the Regulations framed there-under. More specifically:

“Spatial information product” means spatial information prepared in a manner ready for dissemination to users either in digital or hard copy form and includes a map.

“Spatial information service” means a service provided in which spatial information is used to meet the need of a user.

“SDI Act” means the Spatial Data Infrastructure Act, 2003 (Act No. 54 of 2003), as amended.

“Minister” means the Minister for Rural Development and Land Reform.

“CSI” means the Committee for Spatial Information, established in terms of section 5 of the SDI Act.

“Sub-committee” means the Sub-committee for Policy and Legislation, created by the CSI in terms of section 10 of the SDI Act.

“Department” means the Department of Rural Development and Land Reform.

“ICT” means information and communication technology.

Policy on Pricing of Spatial Information Products and Services

1. Policy Statement

Guidelines for the pricing for the provision of spatial information products and services by public sector organisations to users.

2. Purpose

- 2.1 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.
- 2.2 The Committee on Spatial Information (CSI) 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.
- 2.3 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 modes of operating 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.
- 2.4 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, universal access.

3. Scope

3.1 This policy covers all spatial data and spatial information provided by public sector organisations. This includes all data custodians and all other public sector organisations providing spatial data and spatial information products and services, whether as a primary or a secondary provider.

3.2 The policy deals with spatial information products and services which are regarded as generally available from the organisation and those which the organisation customises, on specific request, for the client and which are not generally available (also referred to as value-added products and services).

4. Objectives

The objectives of the policy are to:

- a) Promote transparency in the public sector by removing cost of information as a barrier;
- b) Ensure access to spatial information products and services on the grounds of affordability;
- c) Promote consistency across the public sector with respect to manner for the pricing for spatial information products and services;
- d) Promote the *Batho Pele* principle of providing value for money to users;
- e) Encouraging job creation and economic activity through entrepreneurial utilization of affordable spatial information from public sector sources.

5. Legislative and Regulatory Framework

Constitution of the Republic of South Africa.

Spatial Data Infrastructure Act, 2003 (Act No. 54 of 2003) and the Regulations framed there-under.

Promotion of Access to Information Act, 2000 (Act No 2 of 2000).

Other legislation specific to the mandate of the public sector organisation(s).

6. Policy Details

6.1 Key principles:

- Promote the principles of open data and universal access to data, particularly that held by public sector organisations;
- Compulsory for data custodians;
- Spatial information collected and maintained by public sector organisations, funded from the fiscus, are a public good;
- Affordability of accessing spatial information;
- Consistency across public organisations in the pricing of spatial information;
- Spatial information must not be regarded by public sector organisations as a source of income.

6.2 There are two distinct categories of spatial information products and services provided by public sector organisations. Firstly, it is those products which are regarded as generally available from the organisation. These are usually listed in the organisation's manual of records prepared in terms of section 14 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) and revised annually. The second category would consist of products and services which the organisation customises, on specific request, for the client and which are not generally available (also referred to as value-added products and services).

6.3 For the case of generally available products and services:

6.3.1 The principles guiding the policy on the pricing of such products and services need to be consistent with the provisions of the Promotion of Access to Information Act, 2000, basically charging the user what it costs the organisation to make the information available to the client in the requested format. This main principle is referred to as Cost of Fulfilling User Request (**COFUR**). The products and services of a data custodian for which public funding is provided, is regarded as generally available spatial information products and services for the purposes of this policy.

- 6.3.2 The “COFUR” principle 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 the materials used for the copy (medium, printing), preparing for dispatch, postage and packaging.
- 6.3.3 When requested to do so, the public sector organisations must provide the method used, including all cost elements and unit costs, to determine the prices of products and services.
- 6.3.4 A public sector organisation may provide spatial information products and services at a price less than the COFUR price.
- 6.3.5 It needs to be kept in mind that the cost to the organisation 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 organisation, i.e. service delivery. Thus these services are fully funded by moneys allocated to the organisation by Parliament or from statutory rates and taxes, and need not be “recovered” from the users that happen to come to the counter – these costs should therefore not be included as part of COFUR.
- 6.3.6 The Minister may, upon receiving a motivated request and on recommendation of the CSI, exempt partially or in full a public sector organisation from the COFUR pricing.
- 6.3.7 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.
- 6.3.8 In terms of Act 2 of 2000, the State (in general) is not excluded from paying charges determined under this policy.
- 6.4 For the case of special products and services (value-added products and services):
- 6.4.1 Products and services falling into this category are not generally available and are generally of use only for a specific client. The client who requests such services from the organisation needs to be made aware that any costs incurred by the organisation in the provision of the requested special product

or service will be to the client's account.

6.4.2 The pricing would generally be determined in the terms and conditions of a service level agreement or contract between the client and the organisation, or through the fees of office or rates provided for in terms of legislation.

6.4.3 When a product is prepared for a client in terms of this case and then subsequently a new client requests the same product then the further provision of the product must be in accordance with the COFUR principle and not charged for in full. Should the previously prepared product require an adaption for the new client then only the cost of such adaption must be charged for and not the full price.

6.4.4 The following cost items could be used to determine the cost of the product or service:

- a) Human resources – total cost of employment, and not only salary, as apportioned to the product or service;
- b) Materials consumed;
- c) Equipment use (including ICT systems) – capital, maintenance and running cost;
- d) Apportionment of infrastructure (direct and overhead) - including electricity and water;
- e) Communication, including ICT networks and internet usage;
- f) Transport;
- g) Accommodation;
- h) Rates and taxes, if applicable;
- i) Incidental costs.

Note that the cost of the generally available spatial information must not be included in this costing.

6.5 No royalty fee will be payable on standard products/services or records where the price of the product is based on the COFUR price principle.

7. Roles and Responsibilities

- 7.1 The Policy and Legislation Sub-committee is responsible for drafting policies to be submitted to the CSI.
- 7.2 The CSI recommends the policy to the Minister, and upon approval from the Minister, publishes it in the Government Gazette.
- 7.3 The policy comes into effect thirty (30) calendar days after publication.
- 7.4 The Policy and Legislation Sub-committee reviews the policy annually, and where applicable, recommends amendments to the CSI.
- 7.5 The policy is binding on all parties referred to in the SDI Act.

8. Monitoring, Evaluation and Review

- 8.1 The Department will undertake the monitoring of the adherence to the policy. The Department will submit a report on its findings, at least once per annum, to the CSI.
- 8.2 Adherence to the policy will be done a various means, including undertaking audits and inspections. Upon request to do so, any organisation, being the subject of adherence monitoring, must provide within a reasonable period of time any documentary evidence requested of it for the purpose indicated.
- 8.3 The CSI, assisted by the Department, should from time to time evaluate the efficacy and effectiveness of the policy. Due regard must be had for the purpose and objective of the policy, as well as the state of readiness for implementation of the policy by affected parties.

9. Amendment

No.	Amendment	Date

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10. Associated Documents

Batho Pele Principles of the public sector.

Development and Review of CSI Policy Process Documentation



COMMITTEE FOR SPATIAL INFORMATION
(In terms of the Spatial Data Infrastructure Act, 2003 (Act No. 54 of 2003))

Data Custodianship Policy

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“Minister” means the Minister of Rural Development and Land Reform.

“CSI” means the Committee for Spatial Information, established in terms of section 5 of the SDI Act.

“Sub-committee” means the Sub-committee for Policy and Legislation, created by the CSI in terms of section 10 of the SDI Act.

“Department” means the Department of Rural Development and Land Reform.

“Data Collection Project Register” means a technical system provided by the Department.

“Data Custodian” means an organ of state; or an independent contractor or person engaged in the exercise of a public power or performance of a public function, which captures, maintains, manages, integrates, distributes or uses spatial information.

Data Custodianship Policy

1. Policy Statement

Sections 11 to 18 of the Spatial Data Infrastructure(SDI) Act requires Data Custodians to provide accurate, relevant and up to date geo-spatial data/information products and services to the State for improved planning and informed decision making. This policy shall determine and guide Data Custodians in meeting the requirements of the provisions of the SDI Act.

2. Purpose

This purpose of this policy is to:

- (a) Outline the criteria for the identification and appointment of a Data Custodian to promote data sharing.
- (b) Promote cooperative relationships among Data Custodians and other entities/organisations to ensure access to and availability of relevant geo-spatial datasets.
- (c) Specify the rights and responsibilities of a Data Custodian, in terms of the SDI Act and other legislation and policies.
- (d) Specify the responsibilities of a Data User in relation to a Data Custodian.

3. Scope

This policy is applicable to organs of State and service providers providing services to the State. The policy aims to ensure proper data dissemination, management, maintenance, archiving and documenting for the State. It applies to the base datasets and other datasets as identified by the Committee for Spatial Information (CSI) from time to time.

4. Objectives

The objectives of the policy are to:

- (a) Improve access to and availability of relevant spatial data/information;
- (b) Eliminate duplication of spatial data collection;
- (c) Protect the privacy of individuals and avoid legal liabilities among all parties;
- (d) Improve the quality of spatial datasets;
- (e) Foster co-operation between the different spheres of government and other organizations;
- (f) To ensure spatial data integration.

5. Legislative and Regulative Framework

Constitution of the Republic of South Africa

Intergovernmental Relations Framework Act, (Act No.13 of 2005)

Spatial Data Infrastructure Act, (Act No. 54 of 2003)

Promotion of Access to Information Act, (Act No.2 of 2000)

6. Policy Details

6.1 Key Principles

The functioning of society depends upon information and its efficient communication among the society's members. Information and its effective communication determine the economic efficiency, industrial and productive processes of a nation. Information is widely recognized as the most critical and essential of corporate resources. The full potential of this resource can only be realized if it is accessible and used appropriately by those that require it. It is therefore imperative and necessary to

develop a policy which addresses access, copyright, and pricing issues, while at the same time promoting the exchange and sharing of data/information.

A data custodian is an organ of State as recognized by the Committee for Spatial Information, having the responsibility to ensure that a base dataset is collected and maintained according to specifications and priorities determined in consultation with the CSI and the user community, and being made available to the community in a format that conforms to standards and policies established by the CSI. Data Custodians shall be regarded as trustees of the data/information. Data custodians are responsible for the processes and functions of data capture, validation, maintenance, management, archiving and documenting, including the principles and procedures for accuracy, currency, metadata, data storage and security.

- 6.1.1 Authoritative Dataset:** The Data Custodian is regarded as the authoritative source for the base dataset in its care and therefore is required to keep such dataset up-to-date. Data Custodians must have in place the maintenance plan (including the frequency in which the dataset will be updated).
- 6.1.2 Co-operation and co-ordination:** Due to the limited resources available to the country, many government departments are currently experiencing budget constraints. Data Custodians shall commit to promote efficient, economic and effective use of resources by co-operating and co-ordinating with each other in sharing data and information, as enshrined in the Constitution (Section 195 (1b)). All Data Custodians and agents shall commit towards proper maintenance, improved accessibility and fair distribution of spatial data/information.
- 6.1.3 Access:** Access is a fundamental issue in the exchange of data. Information is valuable when it becomes accessible to the user. All Data Custodians shall capture metadata for their data holdings. Metadata does not only provide information needed to process and interpret data but could also minimize Data Custodian liability. It avoids legal proceedings against one another.

The principle of access to information is rooted in section 32(1a & b) of the Constitution (*“Everyone has the right of access to any information held by the state and any information that is held by another person and that is required for the exercise or protection of any right”*). Access to information is necessary for the development of and promotion of an informed public, an accountable government, improving decision making and service delivery and economic development and is of great benefit to society as a whole. Access to information occurs when the public is provided with information, to which they are legally entitled upon their request.

6.1.4 Shared Data Custodianship: Where relevant it is possible to have more than one organisation being a custodian for the same spatial feature/entity, that is shared data custodianship. In such circumstances the one organisation, called the Base Spatial Data Custodian, is the custodian for the spatial attributes (geometry) and another organisation, called the Base Attribute Data Custodian, being the custodian for the descriptive attributes. Both Data Custodians shall agree and adhere to policy, standard and specifications for the base dataset.

6.1.5 Base Data Governance: The role of a Base Data Coordinator is hereby established to encourage base data governance. It is the responsibility of a Base Data Coordinator to ensure that the Base Spatial Data Custodian and the Base Attribute Data Custodian create a Base Dataset that adheres to all policies and standards and specifications. The Base Data Coordinator will also be responsible for ensuring data compatibility and integration of different Data Custodians for the same base dataset but with adjoining geographical coverages.

6.2 Rules

6.2.1 Co-operation and co-ordination

The CSI shall facilitate and promote co-operation and co-ordination among the different Data Custodians and other organs of State to ensure data integration and interoperability.

Data custodians shall work together to facilitate data and information sharing in order to avoid duplication of data capture and cost to all spheres of government.

Data custodians should, where possible consult users in line with Batho Pele principles in determining needs when capturing or updating spatial information.

Data custodians shall maintain, validate, describe and ensure accessibility of spatial data/information in their custody.

Data custodians shall manage spatial data in a way that facilitates data sharing and use by other Data Custodians and users.

Data Custodians shall be accountable for the integrity of unmodified spatial information which is supplied by the data vendor.

6.2.2 Access

The Department shall be responsible for the development and maintenance of the Electronic Metadata Catalogue for accessing spatial datasets.

Data custodians shall disclose or make information available to the public on request unless it is exempted under the Promotion of Access to Information Act.

Data custodians must register their data collection/acquisition projects on the data collection project register at the Department prior to undertaking the project and update the register when changing the status of the project.

In providing access to spatial information, Data Custodians shall ensure that the privacy of individuals is protected in accordance with all applicable legislations.

Data Custodians shall ensure that reasonable security measures are in place to avoid loss, unauthorized access, modification and disclosure of personal data.

Any spatial data/information that is disclosed or made available to users must include the metadata component.

Data Custodians should ensure that their metadata is available to the public by establishing a node at the Department's Electronic Metadata Catalogue, or make their metadata records available to the Department for inclusion into the Electronic Metadata Catalogue.

6.2.3 Adherence to standards

Data custodians must adhere to standards that are prescribed by the Minister in terms of section 4(1) (a) of the SDI Act. Data custodians must adhere to other relevant national standards for spatial information in promoting interoperability.

6.2.4 Quality

The Data Custodian shall ensure that the data is accurate and current in terms of the determined user needs for the purpose for which the data was captured. Where probable errors exist, the degree of probability of its correctness must be made available.

The Data Custodian shall ensure that the data or information is free from ambiguities.

Data Custodians shall ensure that the quality and resolution of their data sets meet the needs of their intended users.

Frequent and timely spatial data set updates from Data Custodians of base data sets should be sent to Data Custodians of derived data sets.

Data Custodians of derived datasets should ensure that their data is derived from the latest base datasets.

6.2.5 Rights

Data Custodians are entitled to charge for spatial information/datasets in accordance with the Policy on Pricing of Spatial Information Products and Services (CSI Policy No. 01).

6.2.6 User Responsibility

Users must report errors found in spatial datasets to the Data Custodian(s) from whom they obtained the data/information in accordance with the SDI Act. Such reporting of errors must be done within 90 calendar days of the user becoming aware of such error.

6.2.7 Criteria to be used in Identifying a Data Custodian

In identifying a Data Custodian, the following criteria will be used:

- Mandated responsibility (legislation, Cabinet directive, policy or other) (compulsory);
- Sufficient capacity, resources and infrastructure to perform the function of a data custodian (conditional);
- Request by the CSI to be a data custodian (compulsory).

6.2.8 Cooperative Relationships

- Where a user is granted permission by a Data Custodian to update information obtained from the Data Custodian, the updates must be passed back to the Data Custodian at no cost.
- Data Custodians shall make their conceptual data model available to the public on request.
- Data Custodians shall assist other organs of State in developing data product specifications

- Organs of State which have been granted permission to capture data by the CSI shall capture such datasets after consultation with the respective Data Custodian.
- All datasets collected or created through public funding shall be passed back to the respective Data Custodian at no cost.

7. Roles and Responsibilities

7.1 The Policy and Legislation Sub-committee is responsible for drafting policies to be submitted to the CSI.

7.2 The CSI recommends the policy to the Minister, and upon approval from the Minister, publishes it in the Government Gazette.

7.3 The policy comes into effect thirty (30) calendar days after publication.

7.4 The Policy and Legislation Sub-committee reviews the policy annually, and where applicable, recommends amendments to the CSI.

7.5 The policy is binding on all parties referred to in the SDI Act.

7.6 The CSI shall promote co-ordination and co-operation between Data Custodians and other organs of State.

7.7 The CSI Subcommittee on Data shall recommend the list of Data Custodians to the CSI for approval.

7.8 The Department shall be responsible for providing implementation support to Data Custodians and other organs of State.

8. Monitoring and Evaluation

8.1 The CSI, assisted by the Department will monitor adherence to the policy.

8.2 Adherence to the policy will be done through various means, including undertaking audits and inspections. Upon request to do so, any organisation, being the subject of adherence monitoring, must provide within a reasonable

period of time any documentary evidence requested of it for the purpose indicated.

- 8.3 The CSI, assisted by the Department, should from time to time evaluate the efficacy and effectiveness of the policy. Due regard must be had for the purpose and objective of the policy, as well as the state of readiness for implementation of the policy by affected parties.
- 8.4 The Data Sub-committee shall from time to time evaluate Data Custodian's datasets in-relation to the user requirements and the data product specifications.
- 8.5 The CSI shall monitor custodians compliance with all standards and legal requirements.

9. Licensing

Data Custodians cannot license datasets for exclusive use; however in circumstances where a data custodian received a licensed data, the data custodian shall comply with requirements of such license.

10. Copyright

Data custodians shall ensure that where copyright resides in any dataset, such copyright will be adhered to in line with the Copyright Act (Act No. 98 of 1978).

11. Amendment

No.	Amendment	Date

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12. Associated Documents

Development and Review of CSI Policy Process Documentation

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