

Vermont Tackles the Fee Question

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Readers of GIS Law are doubtless familiar with the debate about charging fees for GIS data, and too often are treated to a recapitulation of the same old policy litanies in a variety of journals. This article is offered as a discussion of the "real-world" factors considered by governmental decision-makers in the midst of highly charged budget and public-records policy debates in one small jurisdiction: Vermont.

The Vermont Center for Geographic Information, Inc. (VCGI), is a public, not-for-profit corporation authorized by the 1992 Vermont General Assembly. By statute and by Executive Order, VCGI has been given responsibility for leadership of the Vermont GIS program. Act 258 of the 1992 Vermont General Assembly directed VCGI to "... investigate the feasibility of charging fees for products or data, with such fees based upon the public investment in the data, or the expense of preparing the products to be sold, or the value of those products or data to the purchasers or to others." (3 VSA 20(d)) and to file recommendations prior to January 1994. This article will describe the considerations discussed by the VCGI Board of Directors, and the outcome of its deliberations.

Current VCGI Practices re: Data Access & Fees

Since December 1991, VCGI has operated a system for disseminating electronic and paper public records. A catalog of available data, publications and products, a price list, order forms, shipping, invoicing, and record keeping are parts of this system. A review of three years' history of filling orders indicates that VCGI provides about 17 megabytes of computer data for each order, averaging three orders per week. Many orders are filled quickly by VCGI's data technician, but about one-quarter requires ninety minutes or more for retrieval and preparation of data.

VCGI operates according to Vermont's "Access to Public Records" statutes (1 VSA 315 et seq.) which allow a public agency to collect the "actual cost of providing the copy" of public records unless fees are authorized by statute. VCGI collects no fees, but recovers:

1. A per-page charge for documents,
2. The wholesale cost to VCGI of the magnetic media requested by the customer — six sizes are available, and
3. The actual cost of staff time required to copy the information, computed to include wage and benefit costs, but no indirect charges.

VCGI Policy Recommendation

Throughout 1993, VCGI's eleven-member Board of Directors considered whether charging fees for GIS data and products was a practice that should be adopted, based on the policy and operational considerations that would arise. As directed by Act 258, VCGI investigated the fee levels which would have to be set to meet goals of recovering our investment and/or recovering expenses, and assessed the problems of assigning economic value as a basis for charging. The Board concluded that imposition of fees would not be politically and fiscally viable, would dampen the growing use of Vermont's spatial data assets, and would

frustrate policy goals of assuring access to public information and supporting economic development. The remainder of this article enumerates the considerations of greatest importance to the Board.

Access to Public Records Policy

The stated purpose of Vermont statutes is plain: **"Officers of government are trustees and servants of the people and it is in the public interest to enable any person to review and criticize their decisions. . . the provisions of this subchapter shall be liberally construed. . ."** — 1 VSA 315 GIS data and any saleable products developed using the data fall within the statutory definition of "public records." Legislative action would be required to exempt such data and products from the statute's coverage. Honoring the directive for liberal construction requires that any exemption should be justified only if a related policy goal is more important than the stated goal of assuring widespread public access.

On a more pragmatic note, discussions with legislators, customers and others led VCGI to believe that any proposal to exempt VGIS data and products from public access policy would bring heated opposition from vocal members of the General Assembly, the public and the press. VCGI concluded that reasoned debate of policy goals could not occur in such an environment, and that the credibility, support for, and very survival of Vermont's GIS strategy could be threatened.

The Role of Government

The stated policy of Vermont's enabling GIS legislation is that "all data, relevant to a geographic information system . . . shall be in a form that is compatible with, useful to, and shared with the geographic infor-

mation system." GIS is one technology within which data bases can be made compatible, can be shared, and can be useful to multiple customers — both public and private. The VCGI Board concluded that Vermont's GIS information assets should not be asked to generate a financial return, any more than are our investments in more traditional infrastructure elements necessary for economic growth and the public welfare. VCGI believes that a public spatial data infrastructure available to the public without fees will produce large but as-yet unmeasurable returns in growth of the economy, protection of public resources, an informed populace, and improved commercial and public-sector decisions.

GIS is a technology which is rapidly maturing and is being implemented across many disciplines. Technological change will likely create future public data bases and products which are composites of tabular data, images, sounds, geographic references, and other multi-media components. Any fee policy which incorporates a distinction between spatial and non-spatial information could in the near future appear as ill-considered as would have been a 1970s attempt to differentiate typed documents from those incorporated in computer word-processing files.

Revenue Potential

VCGI reviewed several models of assigning fee amounts, including a per customer charge, a per order fee and a per data base method. We focused on the test of "reasonableness;" i.e., how minimal a fee would customers be willing to pay without great distress? VCGI analyzed the answers to the hypothetical questions:

- "How much revenue would a \$100 per customer annual fee raise?"
- "How much money would be generated if each data request had a \$50 minimum order charge?"

Using current numbers of customers and orders, an annual "per customer" fee of \$100 would raise about \$10,000, assuming that all "active" customers were willing to pay. A "per order" fee of \$50 would raise about \$7,500. The VCGI Board asked whether any level of fees perceived as "reasonable" could raise revenues sufficient to warrant the policy change? They concluded the answer to be "No."

Flexibility of Demand

Further, the VCGI Board considered whether the imposition of fees might depress the number of customers and orders for VGIS data (and any revenue stream that would be likely to result from such a fee.) GIS is a relatively new technology, introducing startup costs for any business or public agency. Though GIS technology offers potential productivity gains for many potential users, effective use requires startup investment and ongoing commitment. Many current Vermont GIS users are small businesses or governmental units; they have fixed budgets and limited ability to muster new resources. VCGI believes that current demand for GIS data is very cost-sensitive and "inflexible." That is, any level of fees may discourage use by current customers, and discourage the investments necessary for new customers to utilize Vermont's spatial data assets.

Customer Opinion

A May 1993 survey of VCGI Customers reveals some sentiment in favor of charging fees. However, comments from these customers reveal the fear that fees might be the only way to fund continued GIS data availability in the face of tight state budgets. One customer opposed to fees none-the-less observed that taxpayers pay for roads and other infrastructure through general tax dollars, and said "As with traditional forms of infrastructure, the public, legislators, and the user community must always be reminded 'you get what you pay for.'"

Pricing Methodology

Research into GIS literature and other state statutes has provided VCGI examples of three methodologies for setting fees for GIS data and products. Pricing based on market demand is attractive when demand is broad, mature and stable. Vermont is currently working to get many types of users — ranging from poor rural towns to statewide utility companies — to utilize GIS technology. Until use expands and the market matures, it would be impractical to assign variable price structures to meet the demands of our several classes of users.

Second, pricing based on recovery of some or all costs is a useful model. However Vermont has a thin base of population and potential business users; amortizing costs of operations and maintenance — let alone data development — across this base would price our GIS assets out of their range.

Third, statutes in some other states call for the establishment of "reasonable" fees by public authorities. But none of the statutes which allow this approach provides either principles upon which "reasonableness" should be determined, or methodologies for making such determinations.

Conclusion

GIS literature abounds with clamorous dialogues about fee policies; Vermont legislators, public officials, press and GIS users have all joined in those discussions. Those responsible for recommending and implementing such policies, and for the day-to-day operations of public access systems cannot sit on their hands awaiting consensus and straightforward direction. In each jurisdiction the hard work of analyzing customer demand and opinion, market potential, revenue and cost structures must be done, and the political debate must go forward. Only then will practical answers emerge and will we find pragmatic solutions to the predicament of how to afford the GIS we need.

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