

The Freedom of Information Issue

A major concern of local governments, which prevents some from joining the Cooperative, is directly tied to the State's Freedom of Information Law (FOIL). FOIL was originally developed to guarantee citizen access to public records as a means of improving government accountability. However, it does not distinguish between information requested for accountability purposes and information requested for commercial purposes. Thus, new businesses addressing the "information age" market can acquire GIS data sets from public agencies through FOIL, then repackage and sell them at a profit, even to other public agencies. Some government agencies are therefore strongly opposed to advertising the availability of their costly data sets on the Clearinghouse, fearing commercial entities will obtain and profit from them without cost through FOIL.

In order to solve this long-standing problem, the Temporary GIS Council recommended that the Freedom of Information Law be amended to allow local governments and state agencies to charge fees for data to be used for commercial purposes. The proposed amendment to FOIL would allow the licensing of geographic information system records and enable primary custodians to license a GIS record prescribing the conditions under which the recipient of the record may use, distribute, duplicate, sell or resell it. It would also allow local governments and state agencies to charge a reasonable fee, not to exceed the fair market value of the record, when commercial use is intended. The revenue gained through these fees is expected to help local governments and state agencies defray the costs of GIS development and maintenance, as well as provide for expanded and enhanced public access to government information. This amendment is very controversial and has not yet been enacted. There is serious opposition by the private sector. One private sector advisory group member developed an online forum to discuss and debate the proposed amendments.

Bureaucracy/local authorities barriers

Local participation in the data sharing cooperative has been slowed by local bureaucracies and legal authorities which must understand and approve the agreements. Many times the GIS user is very enthusiastic about the cooperative but the legal department or other administrative unit, which has not been involved in the development of the cooperative concept, needs considerable time to become familiar with the idea and to review the agreement. Ironically, some express skepticism because there is no cost to participants and they fear hidden costs lie under the surface. In order to overcome these barriers, OFT made an agreement which is very user-oriented, with no cost and low risk to join, and an easy termination clause for those who may wish to withdraw.

Reluctance to invest for the common good

Some state agencies saw little direct value in investing in "the common good" rather than in agency-specific benefits. In order to overcome unwillingness, the Coordinating Body designed multi-agency workgroups with leaders who pushed the participants to recognize their own self-interest was actually served by the "greater good." Leadership exercised by DOT, ORPS and DEC encourage other agencies to join the cooperative. Finally, the Coordinating Body did not make a fixed policy about selling data. (The FOIL amendments allow, but do not require, fees). Thus, state agencies can continue to choose a public release strategy which works best for them individually. Agencies can release their data without charge, charge all requesters (within the limits of the current FOIL), or release data freely within the Cooperative and charge users outside the Cooperative.

A decrease in volunteerism

Volunteerism and enthusiasm, which were very strong in the first year, declined as the program became more formally established. Participants relied more and more on the OFT Project Director and the State Library staff who had proved knowledgeable and reliable. As these staff members became more comfortable with doing things directly, they began to accept more of the responsibilities that had formerly been on the agendas of the working groups. While the data coordination group continues to be very active, most working groups were not able to sustain their initial enthusiasm and some have become dormant after their initial charges were satisfied. As a result, the very small staff is becoming overloaded with some tasks.

Participation from the private sector is still embryonic and it will likely take some time before private organizations have a major role to play. As the private sector is composed of very diverse entities, it is difficult to find the right mix and level of participation and focus. The private sector advisory group has not been very active in the past year and met only once. (By contrast, the local advisory group calls itself into session and has sustained a high level of interest and activity).

In order to re-ignite enthusiasm and volunteerism, the Coordinating Body and staff are targeting a few initiatives that are likely to raise issues or generate resources that will get participants excited and involved. A lively debate

VI. Problems encountered and solutions tried

around the FOIL issue is one likely topic for engaging people in an active way. Projects that showcase the value of mainstream GIS applications are also good candidates. Emergency management applications may be a subject to organize around. The Cooperative use of GIS data and applications during the 1998 ice storm disaster demonstrated the value of GIS to top level decision makers. Although disasters cannot be scheduled, another project that focuses on practical applications for economic development seems promising, as does a statewide initiative to develop a digital ortho photo program.
