

Reclamation Manual

Directives and Standards

Subject: Charges for Use of Federal Assets

Purpose: Provides instructions on assessing fees for Government services and for the sale or use of Federal property or resources not covered by repayment contracts, water service contracts, or the sale of surplus power.

Authority: Title V, Independent Offices Appropriation Act (31 U.S.C. 9701)
Office of Management and Budget Circular A-25 (User Charges) dated July 8, 1993

Contact: Reclamation Law, Contracts and Repayment Office, D-5200

1. **Applicability.** This directive does not apply to the charges assessed under irrigation repayment and water service contracts, M&I repayment and water service contracts, power rates as determined by the Federal power marketing agencies, supply of project use power, and cost share agreements with state and local governmental agencies specific to recreation and fish and wildlife.
2. **Charges for Federal Services or Goods.** The Bureau of Reclamation (Reclamation) will identify services and activities provided and determine the extent of any special benefits provided to an individual recipient beyond those received by the general public. Charges are based on the full cost of providing the service and/or the market value of the good or service.
 - A. OMB Circular A-25 specifies that "full cost" includes, but is not limited to: direct and indirect personnel costs, including salaries and fringe benefits, physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel, and rents or imputed rents on land, buildings, and equipment; management and supervisory costs; and costs of enforcement, collection, research, establishment of standards, and regulation, including any required environmental impact statements.
 - B. Market value (price) is defined as the price or value for a good, resource, or service that is based on competition in an open market and creates neither a shortage nor a surplus of the good, resource, or service. When a substantial demand exists for a good, resource, or service, its market price will be determined using commercial practices. For example, competitive bidding or reference to prevailing prices in competitive markets for goods, resources, or services that are the same or similar. In the absence of substantial competitive demand, the market price will be determined by taking into account the prevailing prices for goods, resources, or services that are the same or substantially similar to those provided by the Government, and then adjusting either the supply or price of the good, resource, or service so that there would be neither a

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shortage nor a surplus. As an example, determining the value of remote campsites by the use of the prevailing price for campgrounds not as remote and then making an appropriate adjustment to account for the remote location.

3. **Special Benefits.** A special benefit is provided when a Federal service enables the beneficiary to obtain greater or faster gains than those provided to the general public. A special benefit is also provided when a Federal service is performed at the request or convenience of the recipient, and the service is beyond what is normally provided to the general public.

4. **Governmental Role.** The first step in assessing charges is to determine whether the Governmental role is as a sovereign or as a proprietor.
 - A. **Sovereign Activities** are those in which the Government acts for the public good. If acting in a sovereign capacity where there will be a user charge, the charge is limited to that which will be sufficient to recover the full cost to the Federal Government. An example is the sale of airwaves for communication purposes. It has been determined that virtually none of Reclamation's activities are sovereign in nature. However, if there is a question about whether an activity is sovereign or not, it is appropriate to contact the Reclamation Law, Contracts, and Repayment Office, D-5200.

 - B. **Proprietary Activities** are those in which the Government owns a resource or product and is leasing or selling the resources as an exercise of the right of ownership, such as the lease of cabin sites and/or sale of campground permits. When acting as proprietor, user charges are to be based on market prices, but not less than the full cost of providing the good or service (as defined in 2a). Under these business-type conditions, user charges may yield revenues in excess of agency costs. Market value is determined by the Regional Director, or authorized official, applying sound business management principles and, so far as practicable and feasible, using comparable commercial practices. The following table identifies the activities that are determined to be proprietary in nature and the authority under which Reclamation undertakes the activity.

Reclamation Proprietor Activities with Market Value (MV) User Charges

Activity	Authority
Warren Act Contracting	Warren Act of 1911
Sale of Water	Sale of Water for Miscellaneous Purposes, Act of February 25, 1920 43 USC § 521
Utility Rights of Way	43 USC § 387

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Communication Facilities	43 USC § 387
Destination Access	43 USC § 387
Mineral/Construction Materials	43 USC § 387
Special Use Permits (benefit individuals)*	43 USC § 387, Reclamation Act of 1902
Lease or Rental of Buildings, Land	43 USC § 387, Reclamation Act of 1902
Urban Drainage	43 USC § 387
Recreation	43 USC § 387, Reclamation Act of 1902

**Examples are boat docks, landscape permits, campgrounds, and all types of rights-of-use.*

- Calculating User Charges.** All identified charges will be collected in advance or simultaneously with the rendering of services, and set as rates rather than fixed dollar amounts in order to adjust for changes in costs. All public entities requesting the authorized use of Reclamation facilities or lands are subject to market pricing. This includes religious and nonprofit entities. Circular A-25 applies to the provision of Federal goods and services to the public, not other Federal establishments. Reimbursement by other Federal establishments is covered in the Economy Act, 31 U.S.C. § 1535 and § 1536, 41 Stat. 613. There will be no charge for a service when the service can be considered primarily as broadly benefitting the general public; however, a determination that a use of an asset provides a benefit to the general public greater than the benefit that accrues to an individual must be fully documented by the authorizing official.