

VOLUME 11A, CHAPTER 4: “USER FEES”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an * symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue and underlined font**.

The previous version dated October 2007 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
040201.A	Policy change from the Office of Management and Budget - OMB Circular No. 25	Add
040401.B	Policy change from the Office of Management and Budget - OMB Circular No. 25	Add
040203A.8	Delete DoDI 7930.2, “ADP Software Exchange and Release” which was canceled 10 October 2010.	Remove
Appendix 2	Insert reference to Title 32 Chapter 1 Part 204 (32 C.F.R. §204) for schedule of fees.	Add
Multiple	Truncate paragraph numbers throughout the chapter to adjust for additional policy language above.	Update
Multiple	Establish hyperlink references throughout the chapter	Add

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CHAPTER 4

USER FEES

0401 OVERVIEW

040101. Purpose

This chapter implements the Department of Defense (DoD) program under [Title 31, United States Code, Section 9701](#) (31 U.S.C. §9701), further codified in [Title 32 Code of Federal Regulations, Part 204](#) and [Office of Management and Budget Circular No. A-25](#) (OMB Circular No. A-25) “User Charges,” to establish appropriate fees for authorized services supplied by DoD organizations.

040102. Applicability

None of the provisions in this chapter should be construed as giving authority for the sale or lease of property, or the rendering of special services. Actions to convey such special benefits must be authorized by separate authority. This user fee policy is applicable except when other statutes or directives specifically direct other practices or procedures.

*0402 POLICY AND PROCEDURES

040201. General

It is DoD policy not to compete unfairly with available commercial facilities in providing special services or in the sale or lease of property to private parties and agencies outside the Federal government. However, when a service (or privilege) provides special benefits to an identifiable recipient, beyond those that accrue to the general public, a fee shall be imposed to recover the full cost to the Federal government for providing the special benefit (or the market price) except as otherwise approved by the Under Secretary of Defense (Comptroller) and authorized by the Director of the Office of Management and Budget. A special benefit will be considered to accrue, and a user fee shall be imposed, when a Government service:

*A. Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (e.g. receiving a patent, insurance, or guarantee provision, or a license to carry on a specific activity or business of various kinds of public land use), or

B. Provides business stability or contributes to public confidence in the business activity of the beneficiary (e.g., insuring deposits in commercial banks), or

C. Is performed at the request of or for the convenience of the recipient, and is beyond the services regularly received by other members of the same industry or group or by the general public (e.g., receiving a passport, visa, airman's certificate, or a Custom's inspection after regular duty hours).

040202. Costing

A. Except as provided in paragraph 040203, “Exclusions”, and Appendix 1, a user fee shall be imposed to recover the full cost to the Federal Government of providing the service, resource, or good when the Government is acting in its capacity as sovereign.

B. User fees shall be based on market prices (as defined in 040401.C) when the Government is not acting in its capacity as sovereign and is leasing or selling goods or resources, or is providing a service (e.g., leasing space in federally owned buildings). Under these business-type conditions, user fees need not be limited to the recovery of full cost and may yield net revenues.

C. User fees will be collected in advance of, or simultaneously with, the rendering of services unless appropriations and authority are provided in advance to allow reimbursable services.

D. Whenever possible, fees should be set as rates rather than fixed dollar amounts in order to adjust for changes in costs to the Government or changes in market prices of the good, resource, or service provided.

040203. Exclusions

A. The provisions of this chapter do not apply when other statutes or DoD issuances require different practices or procedures, such as for:

1. Morale, welfare, and recreation services to military personnel and civilian employees of the DoD and other services provided in accordance with Appendix 1.

2. Sale or disposal of surplus property under approved programs (see Chapter 5).

3. Services furnished the general public relating to, or in furtherance of, the Armed Forces recruiting program.

4. Services furnished to representatives of the public information media in the interest of public understanding of the Armed Forces.

5. Armed Forces participation in public events. Fees for such participation are governed by the provisions of [Department of Defense Instruction 5410.19](#), “Public Affairs Community Relations Policy Implementation.”

6. Records made available to the public, under the Freedom of Information Act, pursuant to [DoD Directive 5400.7 \(DoDD 5400.7\)](#), “DoD Freedom of Information Act (FOIA) Program.” Fees for such record searches and copies of records are governed by Chapter 6 of [DoDD 5400.7-R](#), “DoD Freedom of Information Act Program.”

7. Services furnished to non-Federal audio-visual media. Fees for such services are governed by the provisions of [DoD Instruction 5410.15](#), (DoDI 5410.15) “DoD Public Affairs Assistance to Non-Government, Non-Entertainment-Oriented Print and Electronic Media.”

8. Pricing of performance by DoD Working Capital Fund activities which shall be in accordance with Volume 11B.

9. Foreign Military Sales of Defense articles and services which shall be in accordance with Volume 15.

10. Records made available to Privacy Act requesters shall be in accordance with [DoDD 5400.11](#), “DoD Privacy Program,” and [DoD 5400.11-R](#), “DoD Privacy Program.”

B. User fees may be waived by the Head of a DoD Component when:

1. Furnishing of the service without charge is an appropriate courtesy to a foreign government or international organization, or comparable fees are set on a reciprocal basis with a foreign country.

2. The Director of the Office of Management and Budget has approved a request for an exception. Such exceptions may be recommended when:

a. The cost of collecting the fees would represent an unduly large part of the fee for the activity; or

b. Any other conditions exists that, in the opinion of the Head of the DoD Component or his designee, justifies the exception.

0403 RESPONSIBILITIES

040301. Under Secretary of Defense (Comptroller) (USD(C)).

USD(C) shall develop and monitor policies governing user fees.

040302. DoD Components

Heads of DoD Components, or designees, shall:

A. Identify each service or activity that may properly be the subject of a user charge under this chapter.

B. Determine the extent of the special benefit provided.

C. Apply the principles specified in paragraph 040401 in determining full cost or market price.

D. Review the user fees biennially, to include:

1. Assurance that existing fees are adjusted to reflect unanticipated changes in costs or market values; and

2. A review of all other programs to determine whether fees should be assessed for Government services or the user of Government goods or services. DoD Components should discuss the results of the biennial review of user fees and any resultant proposals in the Chief Financial Officers Annual Report required by the [Chief Financial Officers Act of 1990](#).

E. Initiate exception actions outlined in paragraph 040203.B. All such actions shall be coordinated with the USD(C) prior to forwarding to OMB.

1. Exceptions granted under paragraph 040203.B.1 shall be renewed every four years to ensure that conditions warrant their continuation.

2. Exceptions granted under paragraph 040203.B.2 shall be resubmitted for approval to OMB every four years when conditions warrant their continuation.

F. Maintain readily accessible records of:

1. The services or activities covered by this chapter.

2. The extent of special services provided.

3. The exceptions to the general policy of this chapter.

4. The information used to establish fees and the specific methods used in their determination.

5. The collections from each user fee imposed.

G. Maintain adequate records of the information used to establish fees and provide them upon request to OMB for the evaluation of the schedules and provide data on user fees to OMB in accordance with the requirements in [OMB Circular No. A-11](#).

H. Develop legislative proposals as outlined in section 0406 when there are statutory prohibitions or limitations on the assessment of user fees.

0404 FEES

*040401. General

A. All fees shall be based on full cost to the United States Government or market price, whichever applies.

*B. “Full cost” includes all direct and indirect costs associated with providing a good, resource, or service. These costs are outlined in [Chapter 1, Paragraph 010203](#) and include, are not limited to, an appropriate share of:

1. Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement. Retirement costs should include all (funded or unfunded) accrued costs not covered by employee contributions as specified in [OMB Circular No. A-11](#).

2. 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. If imputed rental costs are applied, they should include:

a. Depreciation of structures and equipment, based on official Internal Revenue Service depreciation guidelines unless better estimates are available; and

b. An annual rate of return (equal to the average long-term Treasury bond rate) on land, structures, equipment and other capital resources used.

3. The management and supervisory costs.

4. The costs of enforcement, collection, research, establishment of standards, and regulation, including any required environmental impact statements.

5. Full cost shall be determined or estimated from the best available records, and new cost accounting systems shall not be established solely for this purpose.

*C. “Market price” means the price for a good, resource, or service that is based on competition in open markets, and creates neither a shortage nor a surplus of the good, resource, or service.

1. When a substantial competitive demand exists for a good, resource, or service, its market price will be determined using commercial practices, for example:

a. by competitive bidding; or

b. by reference to prevailing prices in competitive markets for goods, resources, or services that are the same or similar to those provided by the Government (e.g., campsites or grazing lands in the general vicinity of private ones) with adjustments as appropriate that reflect demand, level of service, and quality of the good or service.

2. In the absence of substantial competitive demand, 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 the supply made available and/or price of the good, resource, or service so that there will be neither a shortage nor a surplus (e.g., campsites in remote areas).

*D. Fees established in advance of performance shall be based on the estimated cost of performance. Projected amounts shall be reviewed [the earlier of](#) biennially or whenever significant changes in cost or value occur.

*E. Management controls must be established to ensure that fees are developed and adjusted, using current, accurate, and complete data, to provide reimbursement conforming to statutory requirements. These controls also must ensure compliance with cash management and debt collection policies in accordance with Volume 5.

040402. Information Resources.

The fees for services provided by data processing activities shall be determined by using the costs accumulated pursuant to requirements in [OMB Circular No. A-130](#), "Management of Federal Information Resources".

040403. Recurring Services.

User fees for recurring services shall be established in advance, when feasible. The benefit of charging user fees must outweigh the cost of collecting the fees charged.

040404. Lease or Sale of Property

Fees for lease or sale of property shall be based on the following:

A. Leases of Military Equipment or Real Estate

1. In cases involving the lease or rental of military equipment, when there is no commercial counterpart, the fee will be based on the procedures in Chapter 1, paragraph 010203.I. The current interest rate in [OMB Circular No. A-94](#) will be used in the computation of interest on investment in assets. In determining the value, consideration may be given to the responsibility of the lessee to assume the risk of loss or damage to the property and to hold the government harmless against claims or liabilities by the lessee or third parties.

2. In cases involving real estate outgrants, the consideration for a lease shall be determined by appraisal of fair market rental value in accordance with [10 U.S.C. §2667](#).

B. Sale of Property. When there is legal authority to sell property to the public, the selling price of the property and related accessorial and administrative costs shall be computed in accordance with Chapter 1.

0405 COLLECTIONS

040501. Limitation

Collections of fees will be made in advance or simultaneously with the rendering of service unless appropriations and authority allow otherwise. The policies in this volume, Volume 5, and [DoD Instruction 5010.40](#), “Managers’ Internal Control (MIC) Program Procedures,” shall be used in accounting, controlling, and managing cash and debt collections.

040502. Application

Unless a statute provides otherwise, user fee collections will be credited to the general fund of the Treasury as miscellaneous receipts, as required by [31 U.S.C. §3302](#).

0406 LEGISLATIVE PROPOSALS

040601. Authorities

Legislative proposals that allow the DoD Component to retain collections may be appropriate when a fee is levied in order to finance a service that is intended to be provided on a substantially self-sustaining basis and thus is dependent upon adequate collections.

A. The authority to use fees credited to an appropriation is generally subject to limits set in annual appropriations language. However, it may be appropriate to request exemption from annual appropriations control, if a provision of the service is dependent on demand that is irregular or unpredictable (e.g., a fee to reimburse an agency for the cost of overtime pay of inspectors for services performed after regular duty hours).

B. Legislative proposals that permit fees to be credited to accounts shall be consistent with the full-cost recovery guidelines contained in this chapter. Any fees in excess of full cost recovery and any increase in fees to recover the portion of retirement costs which recoups all (funded or unfunded) accrual costs not covered by employee contributions are to be credited to the general fund of the Treasury as miscellaneous receipts.

040602. Procedures

Where the retention of the collections is appropriate, the DOD Component(s) concerned may submit legislative proposals under applicable procedures included in [OMB Circular No. A-19](#). These procedures may be obtained from the Office of Legislative Counsel, General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600. Proposals to remove user fee restrictions or retain collections shall:

A. Define in general terms the services for which fees will be assessed and the pricing mechanism that will be used.

B. Specify whether fees will be collected in advance of, or simultaneously with, the provision of service unless appropriations and authority are provided in advance to allow reimbursable services.

C. Specify where collections will be credited. Legislative proposals should not normally specify precise fees. The user fee schedule should be set by regulation to allow for the administrative updating of fees to reflect changing costs and market values.

APPENDIX 1: BENEFITS FOR WHICH NO FEE SHALL BE ASSESSED¹

- A. Documents and information requested by members of the U.S. Armed Forces as required by such personnel in their capacity as Service members.
- B. Documents and information requested by members of the U.S. Armed Forces who are in a casualty status, or requested by their next of kin or legal representative.
- C. The provisions of the address of record of a member or former member of the U.S. Armed Forces when the address is readily available through a directory (locator) service, and when the address is requested by a member of the U.S. Armed Forces or by a relative or a legal representative of a member of the U.S. Armed Forces or when the address of record is requested by any source for the purpose of paying monies or forwarding property to a member or former member of the U.S. Armed Forces.
- D. Services requested by, or on behalf of, a member or former member of the U.S. Armed Forces and civilian personnel of the Department of Defense (where applicable) or, if deceased, his or her next of kin or legal representative that pertain to the provision of:
1. Information required to obtain financial benefits regardless of the terms of separation from the Service.
 2. Document showing membership and military record in the Armed Forces if discharge or release was under honorable conditions.
 3. Information relating to a decoration or award or required for memorialization purposes.
 4. Information related to the review or change in type of discharge or correction of records.
 5. Personal documents, such as birth certificates, when such documents are required to be furnished by the member.
 6. Services that are furnished free in accordance with statutes or Executive Orders.
 7. Information from or copies of medical and dental records or x-ray films of patients or former patients of military medical or dental facilities, when such information is required for further medical and dental care, and requests for such data are (a) submitted by an accredited medical facility, physician, or dentist; or (b) requested by the patient, his or her next of kin, or legal representative. Other requests subject to the Privacy Act shall be according to [DoD 5400.11-R](#), "DoD Privacy Act Program".
 8. Services requested by, and furnished to, a member of Congress for official use.
 9. Services requested by state, territorial, county, or municipal government, or an agency thereof, that is performing a function related to or furthering a DoD objective.

10. Services requested by a court, when such services will serve as a substitute for personal court appearance of a military or civilian employee of the Department of Defense.

11. Services requested by a nonprofit organization that is performing a function related to or furthering an objective of the Federal Government or that is in the interest of public health and welfare, including education.

12. Services requested by donors in connection with the conveyance or transfer of a gift to the Department of Defense.

13. Occasional and incidental services (including requests from residents of foreign countries), that are not requested often, when it is determined administratively that a fee would be inappropriate for the occasional and incidental services rendered.

14. Administrative services offered by reference or reading rooms to inspect public records, excluding copies of records or documents furnished.

15. Services rendered in response to requests for classification review of DoD classified records, submitted under [Executive Orders 12065](#) and [13526](#) “National Security Information,” and implemented by [DoD 5200.1-R](#), “Information Security Program.” Such services consist of the work performed in conducting the classification review or in granting and completing an appeal from a denial of declassification following such review.

16. Services of a humanitarian nature performed in such emergency situations as life-saving transportation for non-U.S. Armed Forces patients, search and rescue operations, and airlift of personnel and supplies to a disaster site. This does not mean that inter- and intra-governmental agreements to recover all or part of costs should not be negotiated. Rather, it means the recipient or beneficiary will not be assessed a “user fee.”

¹

Unless otherwise prohibited by law or other DoD issuance.

APPENDIX 2: SCHEDULE OF FEES AND RATES

This schedule codified in [Title 32 CFR Chapter 1 Part 204](#), applies to authorized services related to copying, certifying, and searching records rendered to the public by DoD Components, except when those services are excluded or excepted from charges under paragraph 040203, or the “Benefits for Which No Fee Shall Be Assessed” included as Appendix 1. All other fees will be based on full cost or market price.

Fee Schedule	
Service	Rate
Copies (standard size paper up to 8 1/2 x 14)	\$0.13 per page
Search and Review	
Managerial	\$13.15 per 1/4 hour; \$52.60 per hour
Professional	\$ 9.05 per 1/4 hour; \$36.20 per hour
Clerical	\$5.20 per 1/4 hour; \$20.80 per hour
Other	
Microfiche	\$0.08 per page
Computer and magnetic tapes	\$25.00 each
Computer diskettes	\$1.25 each
Other services (computer time, special mailing)	Actual Cost

Fees will not be charged if the total amount to process your request is \$30.00 or less.

CRITERIA FOR ESTIMATING COST OF COMPUTERIZED RECORDS:

- (1) Costs for processing a data request will be calculated using the full cost method as referenced in paragraph 040401 above.
- (2) Itemized listing of operations required to process the job will be maintained (i.e., time for central processing unit, input/output remote terminal, storage, plotters, printing, tape/disk mounting, etc.) with associated costs.
- (3) Mailing Costs for services (DHL, Express Mail, etc.) when request specifically specifies a means more expensive than first class mail.