

Directive

9100.7

January 3, 1997

FEES FOR OFFICIAL AGENCY SERVICES

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1. PURPOSE

This directive establishes procedures for: (a) official agencies (OAs) to follow when preparing and submitting proposed fees for official services under the U.S. Grain Standards Act, as amended, (USGSA); (b) States to follow when preparing and submitting proposed fees for services under the Agricultural Marketing Act of 1946 (AMA); and (c) Compliance Division review and approval or disapproval of such fees.

2. REPLACEMENT HIGHLIGHTS

This Directive replaces FGIS Program Directive 910.7, dated May 12, 1993.

3. STATUTORY AUTHORITY

Section 7(f)(l)(A)(v) of the USGSA and section 800.70 of the regulations under the USGSA. Section 203(h) of the AMA.

4. CRITERIA FOR FEES

The USGSA provides that OA fees for official services must not be discriminatory or unreasonable. To be nondiscriminatory, OAs must charge each customer for a particular service the same fee and each customer must have an opportunity to qualify for any discounts established by an OA. Section 800.70(c) of the regulations under the USGSA provides that fees will be considered reasonable if:

- a. They cover the estimated total cost to the OA of providing official inspection, official commercial inspection, Class X and Class Y weighing, inspection equipment testing services, and related supervision and monitoring activities;
- b. They are assessed based on the average cost of providing the same or similar services at all locations served by the OA;
- c. They are reasonably consistent with fees for similar services charged by adjacent OAs; and
- d. The OA submits sufficient information showing how they derived the fees.

5. FORM AND CONTENT

Fee schedule form and content must meet the following guidelines:

- a. Form. OAs must submit proposed fee schedules typewritten in a format as close as possible to the Attachment, using OA letterhead or showing the OA name, address, and telephone number. They may include the name(s) of the official agency owner(s) and manager(s). OAs should leave a 2 inch by 2 inch square at the bottom right of each page for the FGIS approval seal.

- b. Effective Date. Enter the proposed effective date of the fee schedule and the following statement: “Federal Grain Inspection Service (FGIS) must approve all fees for official services and OAs will assess only those fees appearing on their current approved fee schedule.”
- c. Regular Hours and Fees. Fee schedules must show the regular business hours and hourly fees. Regular business hours should be consistent with the business hours used by the local grain industry. FGIS encourages all OAs to establish core business hours with a set window (e.g., 7 a.m. to 5 p.m., or 6 a.m. to 6 p.m., Monday through Friday) to satisfy customers. OAs must charge the regular hourly rate for the first 8 hours worked within core hours.
- d. Overtime and Holiday Hours and Fees. Overtime charges may not exceed time and one half the regular hourly rate for all hours over the first 8 hours or Saturdays. OAs may charge a maximum of double the regular hourly rate for Sundays and holidays. If an OA has a separate fee for holiday hours, they must include a list of the holidays on their fee schedule. Holidays will be limited to those observed by the Federal, State, or local governments, or those observed by the local grain industry.
- e. Travel and Standby Fees. Fee schedules must show the hourly fee for travel, the per-mile fee, standby fees, if any, and how the OA assesses such fees (e.g., for customer required standby time, actual miles traveled, more than one trip per day, travel outside city limits, travel more than a specific number of miles, or sampling less than a specific number of carriers). Time in travel and hours worked (including standby time, if any) must be totaled to determine if minimum callout charges apply. (For example: If an OA has a four hour minimum callout charge and a job takes 1 hour of work with two hours of travel, round trip, for a total of 3 hours, they would charge the minimum 4 hour callout.) They must charge travel time and mileage as nearly as practical on an actual cost basis. The mileage rate must be no higher than the guidelines established by the Internal Revenue Service. OAs must prorate travel charges when serving more than one location during one trip.
- f. Unit Fees. Besides or instead of hourly fees, OAs may charge a unit fee to help recover the cost of official services. The fee schedule must show the services included in the unit fee (e.g., grading and certification, sampling, a specific number of sampling hours, travel cost), and how the OA will charge overtime and holiday fees (besides or instead of unit fees).
- g. Additional Charges. OAs must clearly explain the conditions under which they charge additional fees. Such charges include State sales or service taxes, interest on unpaid balances, transportation, service cancellation, postage, UPS, Federal Express, fax, telephone, and shipping charges. OAs will not charge customers a fee if they incurred no cost.

- h. Reinspections. OAs must list two categories: reinspections based on a file sample, and reinspections based on a new sample.
- (1) A reinspection based on a file sample costs little more than inspecting a submitted sample, except barges. Barges may require some additional work, thus a higher fee may be justified; however, OAs must submit sufficient justification detailing the additional costs. Reinspection fees for all other carriers may be slightly over the submitted sample charge to allow for storage, handling, and administrative costs.
 - (2) The fee for reinspections that require a new sample will not be more than the original carrier or sampling fee.
- i. Contractual Arrangements and Other Discounts. OAs must show all discounts (e.g., for contract agreements, volume discounts, and onsite laboratories) on their fee schedule and make them available to all customers who can meet the requirements. Charges to customers for service at different laboratories cannot vary (except mileage and travel) unless the OA incurred extra costs (e.g., costs of labor for inspectors). When estimating costs, OAs must consider whether elevators are supplying laboratory space, equipment, and utilities.
- OAs not listing fees for official commercial inspection services should include a statement that official commercial inspection services are available upon request.
- j. Services Outside the USGSA. FGIS does not approve charges for services outside the USGSA by private OAs. OAs must show such charges on a separate page of the fee schedule and clearly identify them as services not provided under the USGSA.
- k. AMA Fees. States having Cooperative/Reimbursement Agreements with FGIS to provide services under the AMA shall include such fees on a separate page of their fee schedule. States must clearly identify the AMA fees and services, and such AMA fees are subject to the provisions and approval process of this instruction. Section 203(h) of the AMA provides that AMA fees will be reasonable and, as nearly as possible, cover the cost of the services provided.
- l. User Fees. OAs must include user fees charged by FGIS in the unit fee they charge for each service. If not currently included, OAs must include user fees in the standard unit fees at the time of their next fee revision request. OAs may include a separate list of FGIS user fees.

6. FEE CHANGES AND FEES FOR NEW SERVICES

Sufficient justification for evaluation and approval must accompany each request for a fee increase and each request for a fee for a new service. Justification must include documentation showing fixed and variable expenses and any other appropriate information. OAs will notify their customers of proposed fee increases. A copy of such notification must accompany each request for a fee increase.

OAs may decrease fees anytime without obtaining prior approval from FGIS. However, they must notify FGIS of all reductions immediately and they must submit a revised fee schedule for approval.

7. APPROVAL

OAs cannot charge fees for official services under the USGSA and States cannot charge fees for official services under the AMA unless FGIS has approved such fees. To obtain FGIS approval, submit two original copies of the proposed fee schedule to the Compliance Division. Compliance Division will FAX a copy of the proposed fee schedule to the appropriate field office, and Compliance Division will work with the field office in the evaluation process. Allow 60 days for FGIS evaluation. If the Compliance Division needs additional information, they will notify the OA of the exact information required. If the OA does not provide the requested information within a reasonable period, FGIS will dismiss the proposed fee schedule.

The Compliance Division will send a copy of the approved fee schedule to the OA and to the FGIS field office manager.

/s/ Neil E. Porter

Neil E. Porter, Director
Compliance Division

Attachment

**OFFICIAL AGENCY NAME and ADDRESS
TELEPHONE and FAX NUMBERS**

I. GENERAL INFORMATION

Names of Managers and/or Owners: (optional)

Effective Date: (the proposed effective date)

Hourly Charges: Regular, overtime, Saturday, Sunday, and holiday hours and rates. Include whether assessed in full, half-hour, or quarter-hour increments, and list days subject to holiday rates.

Travel Fees: Fee schedules must show the mileage charge and hourly travel rate, and how the OA will assess such charges (e.g., actual miles traveled, portal to portal, outside city limits, when sampling less than a specific number of carriers). Fee schedules also must include the statement, "Mileage will be prorated where possible."

Other Charges: Any other fees assessed such as minimum fees (e.g., less than a specific number of carriers per hour or per shift). Travel time will not be charged when minimum fees are charged.

2. OFFICIAL SERVICES

Include hourly and/or unit fees for each service provided and a statement of what the charges include (e.g., sampling, grading, and certification; sampling only; a specific number of sampling hours).

Enter the statements, "Official Services not covered by the above fees will be charged at the appropriate hourly rate." and if not otherwise listed "Official commercial inspection services are available upon request."

3. AMA SERVICES

Only States can provide services under the AMA. States that have Cooperative/ Reimbursable agreements with FGIS to provide inspection services under the AMA must list those services and fees and clearly identify them as AMA fees. States must show fees for AMA services on a separate page of their fee schedule.



4. SERVICES NOT UNDER THE USGSA OR AMA

FGIS does not approve fees for services outside the USGSA or the AMA. Such fees must be shown on a separate page(s).