

Directive

9100.7

07/19/2023

FEES FOR OFFICIAL SERVICE PROVIDER SERVICES

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1. PURPOSE

This directive establishes procedures for: (a) Official Service Providers (OSPs) to follow when preparing and submitting proposed fees for official services under the U.S. Grain Standards Act, as amended, (USGSA) and the Agricultural Marketing Act of 1946 (AMA); and (b) Quality Assurance and Compliance Division (QACD) review and approval or disapproval of such fees. For purposes of this directive, OSPs refers to Designated private agencies, Designated and/or Delegated States under the USGSA, and Cooperators under the AMA.

2. REPLACEMENT HIGHLIGHTS

This directive replaces Federal Grain Inspection Service (FGIS) Program Directive 9100.7, dated January 30, 2020. This directive was updated to reflect FGIS current fee policies, incorporating separating the USGSA and AMA user fees from unit fees.

3. AUTHORITY

Section 79(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 OSP fees for official services must not be discriminatory or unreasonable. To be nondiscriminatory, OSPs must charge each customer the same fee for a particular service and each customer must have an opportunity to qualify for any discounts established by an OSP.

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 OSP 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 OSP;
- c. They are reasonably consistent with fees for similar services charged by adjacent OSPs;
- d. The OSP submits sufficient information showing how they derived the fees.

Section 203(h) of the AMA provides that the AMA fees will be reasonable and, as nearly as possible, cover the cost of the services provided.

5. FORM AND CONTENT

USGSA fees and AMA fees must be submitted on separate fee schedules.

Fee schedule form and content must meet the following guidelines:

- a. Form. OSPs must submit proposed fee schedules electronically, in Microsoft Word®, in a format as close as possible to the Attachment, using OSP letterhead or showing the OSP name, address, and telephone number. They may include the name(s) of the OSP owner(s) and/or manager(s). The proposed fee schedules must meet the provisions defined within Section 508 of the Rehabilitation Act of 1973, as amended, regarding the accessibility of electronic information for people with disabilities.

Note: OSPs must leave a 2 inch by 2 inch square at the bottom right of each page for the QACD approval seal.

- b. Effective Date. Enter the proposed effective date of the fee schedule and in the header on each page. Proposed effective date should allow for a 60-day evaluation.
- 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. QACD encourages all OSPs 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. OSPs must charge the regular hourly rate for the first eight hours worked within core hours.
- d. Overtime and Holiday Hours and Fees. Overtime charges may not exceed 1½ times the regular hourly rate for all hours over the first eight hours or Saturdays. OSPs may charge a maximum of double the regular hourly rate for Sundays and holidays. If an OSP 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 OSP 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 call-out charges apply. (For example: If an OSP has a four-hour minimum call-out charge and a job takes one hour of work with two hours of travel, round trip, for a total of three hours, the OSP would charge the minimum four-hour call-out charge.) The OSP 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. OSPs must prorate travel charges when serving more than one location during one trip.

- f. Unit Fees. OSPs may charge a unit fee instead of, or in addition to hourly fees, 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 OSP will charge overtime and holiday fees (besides or instead of unit fees).
- g. Additional Charges. OSPs 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, courier fees, fax, telephone, shipping charges and other transaction fees. OSPs will not charge customers a fee if they incurred no cost.
- h. Reinspections\Retests. OSPs must list two categories:
- (1) Based on a File Sample. Fees should be similar to fees for submitted samples. OSPs must submit sufficient justification detailing the need for additional costs. Reinspection fees may be slightly higher than the submitted sample charge to allow for storage, handling, and administrative costs.
 - (2) Based on a New Sample. A new sample will not be more than the original inspection and sampling fees.
- i. Contractual Arrangements and Other Discounts. OSPs must show all discounts (e.g., for contract agreements, volume discounts, and onsite laboratories) on their fee schedules 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 OSP incurred extra costs (e.g., costs of labor for inspectors). When estimating costs, OSPs must consider whether elevators are supplying laboratory space, equipment, and utilities.
- j. Services Outside the USGSA and AMA. QACD does not approve charges for OSP services outside the USGSA or the AMA. If OSPs want to include such charges, they must be shown on a separate page(s) and clearly identified as services not provided under the USGSA or the AMA.
- k. User Fees. OSPs must charge user fees in accordance with the following instructions:
- (1) USGSA.

OSPs must identify user fees as separate line items from the unit fees charged for each service and include the following statements on their fee schedule, as applicable.

 - (a) FGIS Administrative Tonnage Fees. In addition to all other applicable fees, FGIS administrative tonnage fees for export grain shipments inspected and/or weighed, excluding land carrier shipments to Canada and Mexico, will be assessed at the current per metric ton rate identified

in FGIS Directive 9180.74 (Service Fees and Billing Codes, Attachment 1.) Invoices will identify assessed administrative tonnage fees as separate line items per applicable carrier/unit type.

- (b) FGIS Supervision Fees. In addition to all other applicable fees, FGIS supervision fees for domestic U.S. grain shipments inspected and/or weighed, including land carrier shipments to Canada and Mexico, will be assessed at the current per metric ton rate identified in FGIS Directive 9180.74 Service Fees and Billing Codes, Attachment 2. Invoices will identify assessed supervision fees as separate line items per applicable carrier/unit type.

(2) AMA.

Effective January 1, 2024, OSPs must identify Commodity Cooperative Service Agreement Fees and AMA Rice Cooperative Service Agreement Fees as separate line items from the unit fees charged for each service and include the following statements on their fee schedule, as applicable.

- (a) Commodity Cooperative Service Agreement Fees. In addition to all other applicable fees, commodity cooperative service agreement fees for commodity inspection services (pulses, hops, and miscellaneous processed commodities), excluding rice, will be assessed at the current percentage rate identified in FGIS Directive 9180.74 (Service Fees and Billing Codes, Attachment 4.) The assessed fees must exclude travel, mailing expenses, and state and local taxes. Invoices will identify assessed commodity cooperative service agreement fees as separate line items.
- (b) AMA Rice Cooperative Service Agreement Fees. In addition to all other applicable fees, AMA rice cooperative service agreement fees for rice inspection services will be assessed at the current percentage rate identified in FGIS Directive 9180.74 (Service Fees and Billing Codes, Attachment 3.) The assessed fees must exclude travel, mailing expenses, and state and local taxes. Invoices will identify assessed AMA rice cooperative service agreement fees as separate line items.

OSP's must submit proposed AMA fee schedules to QACD no later than November 1, 2023, reflecting the removal of Commodity Cooperative Service Agreement Fees and AMA Rice Cooperative Service Agreement Fees from their unit fees with a January 1, 2024, effective date.

If the OSP requests to retain their current user fees at the existing rate, OSPs must provide sufficient justification for retaining the entire amounts of current commodity cooperative service agreement fees embedded within their unit fees.

If sufficient justification is provided, the OSP may retain the unit fees at the current rate, but prior to FGIS approval must also notify their customers of their intent to increase fees in those amounts through written notice. OSPs must provide a copy of this notice to FGIS as part of their justification for retaining the fee.

6. FEE CHANGES AND FEES FOR NEW SERVICES

Sufficient justification for fee schedule changes must accompany each request. Justification must include documentation showing fixed and variable expenses and any other appropriate information. OSPs will notify their customers of proposed fee schedule changes. A copy of such notification must accompany each fee proposal request.

7. SUBMISSION

Submit the proposed fee schedule electronically in Microsoft Word® format, including justification, and a copy of the notification of proposed fee changes to customers, to QACD via e-mail at FGISQACD@usda.gov.

8. APPROVAL

QACD must approve all fees prior to OSPs charging their customers.

Once QACD receives an electronic submission with the required documentation, allow 60 days for evaluation. If additional information is required, QACD will notify the OSP in writing within the 60-day evaluation period. If the OSP does not provide the requested information within 10 business days, QACD will dismiss the proposed fee schedule.

QACD will send a copy of the approved fee schedule electronically in PDF format to the OSP along with a clean copy of the fee schedule in Microsoft Word® format to use for future submissions.

9. QUESTIONS

Direct any questions regarding establishing fee schedules to QACD via e-mail at FGISQACD@usda.gov.

Effective Date (in header on each page)

**OFFICIAL SERVICE PROVIDER NAME and ADDRESS
TELEPHONE NUMBER**

[USGSA] or [AMA] Fee Schedule

This fee schedule is not valid unless signed seal appears on each page.

I. GENERAL INFORMATION

Names of Managers and/or Owners: (optional)

Effective Date: (the proposed effective date 60 days from submission)

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 OSP 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, call-out charges, etc.). 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 when applicable, if not otherwise listed, "Official commercial inspection services are available upon request."

3. SERVICES NOT UNDER THE [USGSA] OR [AMA]

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

Leave a 2x2 blank space on every page for seal