



December 2023

# ARMY CORPS OF ENGINEERS

## Better Alignment with Key Practices Would Improve Management of Real Estate Administrative Fees

Accessible Version

# GAO Highlights

Highlights of [GAO-24-106188](#), a report to the Chairman, Committee on Oversight and Accountability, House of Representatives

## Why GAO Did This Study

The Corps manages hundreds of civil works projects in the U.S. In addition, the Corps oversees over 65,000 uses of its real estate by individuals, businesses, and government entities nationwide. The Corps is authorized to charge fees to these users to cover the expenses it incurs in connection with entering into certain real estate transactions.

GAO was asked to review how the Corps manages administrative fees. This report examines the extent to which the Corps follows key practices for (1) setting fees, (2) reviewing and updating fees, and (3) sharing information about fees.

GAO reviewed policy documents and interviewed officials from Corps' headquarters and selected divisions and districts. The three selected divisions collected the most fees in fiscal years 2018–2022, and the six selected districts had the highest number of fee payers for the same fiscal years. GAO also interviewed a sample of fee payers. GAO compared the information collected to key considerations and practices in GAO's design guide for federal user fees and other federal guidance.

## What GAO Recommends

GAO is making six recommendations, including that the Corps require divisions or districts to set administrative fees in a consistent manner, regularly review fees, and post fee information on their websites. The Corps agreed with five of the recommendations and partially agreed with one. GAO continues to believe that recommendation is valid as discussed in the report.

View [GAO-24-106188](#). For more information, contact Andrew Von Ah at (202) 512-2834 or [VonAhA@gao.gov](mailto:VonAhA@gao.gov).

December 2023

## ARMY CORPS OF ENGINEERS

### Better Alignment with Key Practices Would Improve Management of Real Estate Administrative Fees

## What GAO Found

The U.S. Army Corps of Engineers (Corps) charges real estate administrative fees (administrative fees) to public and private entities that are issued leases, licenses, or easements to use Corps-managed property. These uses may include privately operated marinas on lakes and power lines crossing canals or rivers. The administrative fees cover expenses incurred by the Corps related to, for example, approving and overseeing these uses. Most of the work of managing administrative fees is handled by the Corps' division and district offices.

#### Examples of Nonfederal Uses of Real Estate at Corps-Managed Property



Source: GAO (photos). | GAO-24-106188

In reviewing division and district practices for managing administrative fees, GAO found that the Corps does not consistently follow key practices for user fees, as described below:

- **The Corps uses inconsistent inputs to set fees.** Selected districts generally set administrative fees by estimating the costs the Corps incurs using activity, time, and labor inputs. However, the specific inputs used to estimate costs differed across districts. For example, two selected districts include the cost of compliance inspections while the other four do not, which may result in disparate fees across districts for similar real estate transactions.
- **The Corps does not regularly review and update fees.** Almost none of the selected divisions and districts regularly reviewed and, as appropriate, updated administrative fees. Officials from one district noted that as a result, its fee amounts have not kept up with increases to its costs.
- **The Corps does not consistently share information with the public.** Less than half of the selected divisions and districts posted administrative fee information—including the amount of the fees—on their websites.

In most cases, GAO found that the Corps' agencywide policies for administrative fees lacked detail or direction to divisions and districts on how to set, review, and share information on administrative fees. By developing policies that better align with key considerations and practices, the Corps could improve the perceived equity and transparency of its administrative fees. For example, by regularly reviewing its fees, the Corps could better ensure it recovers its costs and does not significantly overcharge or undercharge payers. In addition, by sharing information on the fees on its websites, the Corps could make the purpose and amount of the fees transparent to the public.

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**Abbreviations**

administrative fees	real estate administrative fees
Corps	U.S. Army Corps of Engineers
DOD	Department of Defense
OMB	Office of Management and Budget

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December 8, 2023

The Honorable James Comer  
Chairman  
Committee on Oversight and Accountability  
House of Representatives

Dear Chairman Comer:

The U.S. Army Corps of Engineers (Corps) is responsible for investigating, developing, and maintaining water resource projects and spends billions of dollars annually on a variety of projects in its Civil Works program.<sup>1</sup> At some of these projects, the Corps authorizes individuals, private entities, or state or local governments to use Corps-managed real estate. The Corps oversees more than 65,000 such uses of its real estate nationwide, including privately operated marinas on lakes and power lines crossing canals or rivers. Under statutory authority, the Corps can accept user fees to cover the administrative expenses the Corps incurs in connection with entering into certain real estate transactions.<sup>2</sup> For example, the Corps charges for expenses related to reviewing and approving users' applications and overseeing uses. Most of the work of implementing and managing these real estate administrative fees falls on the Corps' divisions and districts around the country. Some marina owners have raised concerns that real estate administrative fees are excessive, inconsistent, and lacking justification and transparency.

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<sup>1</sup>In addition to the Civil Works program, the Corps has a Military program, which provides, among other things, engineering and construction services to other U.S. government agencies and foreign governments. This report only discusses the Civil Works program.

<sup>2</sup>In connection with certain real property transactions with a non-federal person or entity, the Secretary of a military department may accept amounts provided by the person or entity to cover administrative expenses incurred by the Secretary in entering into the transaction. This authority applies to the following types of real property transactions: 1) the exchange of real property; 2) the grant of an easement over, in, or upon real property of the United States, 3) the lease or license of real property of the United States, 4) the disposal of real property of the United States for which the Secretary will be the disposal agent, and 5) the conveyance of surplus real property for natural resource conservation under 10 U.S.C. § 2694a. 10 U.S.C. § 2695. The Corps has implemented this authority as allowing for the partial or complete waiver of such fees for real estate transactions that provide a public benefit or serve a project purpose that primarily or exclusively benefits the Corps.

You asked us to review the Corps' activities with respect to charging real estate administrative fees (administrative fees). This report examines the extent to which the Corps manages its administrative fees consistently with key practices for federal user fees related to (1) setting fees, (2) reviewing and updating fees, and (3) sharing information with the public and fee payers about fees.

To address all our objectives, we selected three Corps divisions and two districts in each of those divisions to examine how the Corps manages its administrative fees.<sup>3</sup> We selected the divisions that collected the most administrative fees from fiscal years 2018 through 2022, while ensuring geographic diversity. Within each selected division, we selected the two districts with the highest number of unique fee payers from fiscal years 2018 through 2022, while ensuring that these districts represented a variety of dollar amounts in the administrative fees collected. We obtained the data on these administrative fees to make these selections from the Corps' financial management system. To assess the reliability of these data, we (1) reviewed agency documents related to the Corps' financial management system; (2) manually checked the data for inconsistencies, missing data, obvious errors, and outliers; and (3) spoke with knowledgeable officials about data entry processes and controls. We determined that these data were sufficiently reliable for our purposes of describing the amounts of administrative fees collected by the Corps during fiscal years 2018 to 2022 and selecting divisions, districts, and individual fees assessed by the Corps for our review. We reviewed Corps policy documents for selected divisions and districts, as well as headquarters policy documents, and we interviewed real estate and operations officials at each level. We also interviewed an official from the Assistant Secretary of the Army for Civil Works—the office that establishes the strategic direction, develops policy, and supervises the execution of the Corps' Civil Works program.

In addition, we selected 17 instances of administrative fees the Corps charged to examine how the selected districts set and shared information about each of these fees. We selected this non-generalizable sample from all administrative fees collected by the selected districts between

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<sup>3</sup>We selected the Great Lakes and Ohio River Division and its Louisville and Nashville Districts, the Northwestern Division and its Kansas City and Omaha Districts, and the South Atlantic Division and its Savannah and Wilmington Districts.

October 2021 and October 2022.<sup>4</sup> To ensure a variety of administrative fee amounts, for each selected district we randomly selected one fee above the median amount, one at or below the median amount, and one equal to an amount listed in a fee schedule provided by the district, if appropriate. For each selected administrative fee, we reviewed Corps documents to see how the district set the fee and shared information about the fee with the fee payer. To further understand the Corps' efforts to share information with fee payers, we attempted to contact the payer of each fee and eventually interviewed 16 of them.

To further examine the Corps' efforts to share information about administrative fees, including with fee payers and the public, we reviewed the public websites for Corps headquarters, selected divisions, and selected districts. We used the websites' internal search feature to identify whether the websites included descriptive information related to administrative fees, including the types of administrative activities covered by such fees, lists of administrative fee amounts, or explanations about the methods used to set administrative fee amounts.

Finally, we assessed the information we gathered on how the Corps manages administrative fees against relevant criteria. Specifically, we compared the information we gathered from Corps headquarters and selected divisions and districts to key considerations and practices in GAO's design guide for federal user fees,<sup>5</sup> the Office of Management and Budget's (OMB) Circular No. A-25,<sup>6</sup> Federal Financial Accounting Standards,<sup>7</sup> and the Department of Defense's (DOD) policy on user fees,<sup>8</sup> as appropriate.

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<sup>4</sup>We selected administrative fees from this time period as it was the most recent, complete fiscal year and to help ensure that Corps officials and fee payers would remember the transaction and administrative fee.

<sup>5</sup>GAO, *Federal User Fees: A Design Guide*, [GAO-08-386SP](#) (Washington, D.C.: May 29, 2008).

<sup>6</sup>OMB Circular No. A-25, dated July 8, 1993, establishes guidelines for federal agencies to use in assessing fees for government services and for the sale or use of government property or resources.

<sup>7</sup>The Federal Accounting Standards Advisory Board, *FASAB Handbook of Federal Accounting Standards and Other Pronouncements, as Amended, Statement of Federal Financial Accounting Standards No. 4: Managerial Cost Accounting Standards and Concepts* (Washington, D.C.: June 30, 2022).

<sup>8</sup>DOD 7000.14-R, Vol. 11A, Ch. 4.

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We conducted this performance audit from August 2022 to December 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

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### The Corps' Civil Works Program

The Corps—a component of DOD that has military and civilian responsibilities—is one of the world's largest public engineering, design, and construction management agencies. The Corps' civil works program covers hundreds of civil works projects nationwide and comprises water resource development activities, including flood risk management, navigation, recreation, and infrastructure and environmental stewardship. In fiscal year 2022, the Corps' funding for its civil works program totaled about \$10.4 billion, about \$8.3 billion of which came from the Corps' regular annual appropriations and about \$2.1 billion of which came from payments from recipients of Corps project-related services, including other DOD units, federal agencies, and state and local governments.<sup>9</sup>

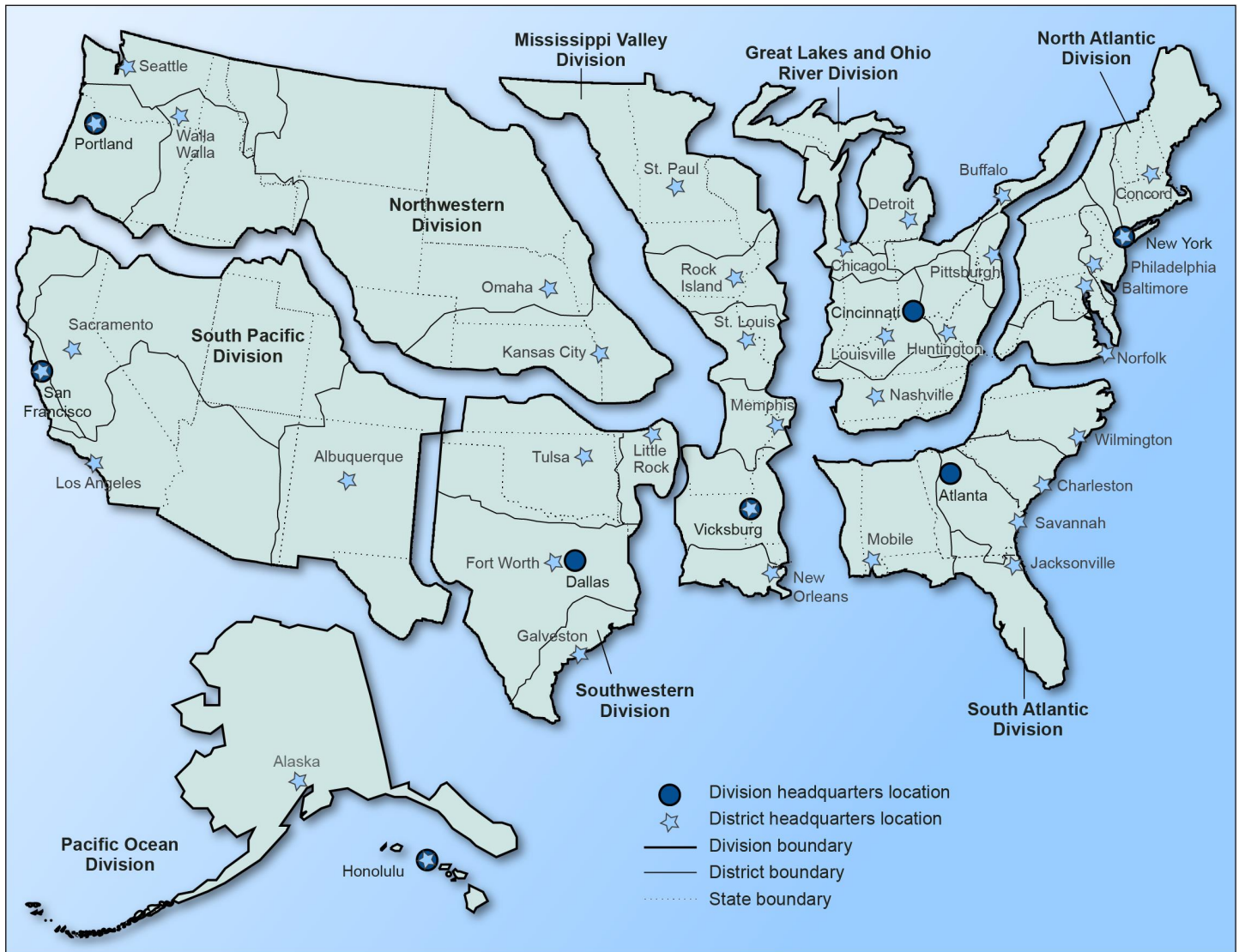
The Corps' civil works program is organized into three tiers: headquarters; eight divisions, which were established generally according to watershed boundaries; and 38 districts nationwide. Headquarters and divisions generally establish policy and provide oversight, and districts implement projects. See figure 1 for the locations of Corps civil works divisions and districts.

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<sup>9</sup>In fiscal year 2022, the Corps' civil works program received an additional \$22.8 billion in supplemental appropriations, including from the Infrastructure Investment and Jobs Act. In some cases, this funding from supplemental appropriations will be spent over several years.



**Figure 1: Locations of the U.S. Army Corps of Engineers' Civil Works Divisions and Districts**



Sources: GAO representation of U.S. Army Corps of Engineers data; Map Resources (map). | GAO-24-106188

## Real Estate Administrative Fees

In addition to its work operating and maintaining projects, Corps districts often authorize state and local governments, businesses, and private entities to use Corps-managed property at projects by issuing real estate instruments—that is, leases, licenses, and easements. For example, at one of its reservoirs, a district might issue (1) a lease to a private entity to

operate a marina; (2) a license to an adjacent landowner for a stairway to a dock; or (3) an easement to a utility company for a power line across project land. See figure 2 for illustrations of such uses.

**Figure 2: Examples of Nonfederal Uses of Land at U.S. Army Corps of Engineers Civil Works Projects**



Source: GAO (photos). | GAO-24-106188

The Corps charges administrative fees for reviewing applications and issuing and overseeing real estate instruments.<sup>10</sup> These costs might be for a variety of activities, including appraising the value of the real estate; surveying and mapping the site; reviewing environmental, legal, and other aspects of the use; preparing the lease or other real estate instrument; and periodically reviewing the use's compliance with requirements during the life of the real estate instrument. In fiscal years 2018 to 2022, the

<sup>10</sup>According to the Corps, the Corps sought the authority to charge the real estate administrative fees after Congress stopped providing direct appropriations to cover the Corps' real estate administrative costs in the early 1990s. This authority for DOD, including the Corps, was enacted as a part of the National Defense Authorization Act for Fiscal Year 1998. See Pub. L. No. 105-85, § 2813(a), 111 Stat. 1993 (1997). Under this authority, DOD, including the Corps, can use the fee collections without additional Congressional action.

Corps collected an average of about \$6 million per year in administrative fees, with a median fee amount around \$400.

Corps districts charge either a standard or custom administrative fee, depending on the type of real estate instrument or the level of effort required to issue and manage the real estate instrument.

- A *standard administrative fee* has a predetermined amount that is typically listed on a fee schedule. The Corps typically charges standard administrative fees—which can range from several hundred to several thousand dollars—for real estate instruments that are routine or lower-effort, such as a license for a walkway to the shore of a Corps project.
- A *custom administrative fee* is based on a cost estimate specific to the individual real estate instrument and therefore fee amounts vary. Custom administrative fees are typically, but not always, used for real estate instruments that require a greater effort or coordination across multiple Corps entities, such as building a new park or marina. Custom administrative fees can range from thousands to tens of thousands or, in rare instances, hundreds of thousands of dollars.

See appendix I for a listing of the real estate administrative fees charged by selected Corps districts.

Corps headquarters has established high-level policies on real estate instruments for its divisions and districts to follow, including through:

- Chapter 8 of the Corps' Real Estate Handbook. This chapter describes the Corps' general procedures for issuing, managing, and administering real estate instruments.
- A 2012 headquarters' memorandum that establishes policy and some procedures on collecting administrative fees for real estate instruments.

The Corps has delegated responsibility for implementing administrative fees to Corps divisions and districts. Divisions may establish regional administrative fee policies and oversee their districts' management of administrative fees. Districts generally set and collect administrative fees and may have their own administrative fee policies.

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## Key Considerations and Practices for Federal User Fees

The Corps' administrative fees are a type of federal user fee. A federal user fee is a charge assessed by a federal agency against a party that directly benefits from a government program or activity. Other examples of federal user fees are food inspection fees and fees to enter a national park.

GAO's design guide for federal user fees states that user fees can be designed to reduce the burden on taxpayers.<sup>11</sup> They do so by financing the portions of activities that provide benefits to certain groups of users—for example, frequent visitors to national parks—above and beyond what is normally provided to the public.<sup>12</sup> The guide says that by charging the costs of those programs or activities to beneficiaries, user fees can also promote economic efficiency, equity, and adequacy of revenue to cover costs.

However, to achieve their goals, user fees must be well designed and implemented. The guide describes key considerations for designing and implementing fees and the effects of these considerations in terms of economic efficiency, equity, and other factors. In particular, it describes practices that federal agencies should consider and follow when setting, collecting, using, and reviewing fees. The guide also refers to other federal government guidance documents, including Federal Financial Accounting Standards and OMB guidance, that provide additional detail on key practices that federal agencies should follow when managing fees.

The design guide, along with other federal and DOD guidance on user fees, identifies several key considerations and practices for setting,

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<sup>11</sup>[GAO-08-386SP](#).

<sup>12</sup>As noted earlier, DOD received specific statutory authority under 10 U.S.C. § 2695 to collect administrative fees in connection with certain real property transactions in 1997. The design guide notes that agencies derive their authority to charge fees either from the Independent Offices Appropriation Act of 1952 (IOAA) or from specific statutory authority. With respect to IOAA authority, unless otherwise authorized by law, IOAA requires that agency regulations establishing a user fee are subject to policies prescribed by the President. OMB provides such guidance to executive branch agencies under this authority through Circular No. A-25. The Circular establishes federal guidelines regarding user fees assessed under the authority of IOAA and certain other statutes, including the scope and types of activities subject to user fees and the basis upon which the fees are set. While the Circular does not reference DOD's specific statutory authority under 10 U.S.C. § 2695, the design guide, which refers to fees set to partially or fully recover costs, provides that specific user fee statutes should be construed consistent with IOAA and OMB Circular No. A-25 to the extent possible as part of an overall statutory scheme.

reviewing, and sharing information on fees that apply to the Corps' management of administrative fees (see table 1).

**Table 1: Key Considerations and Practices for Setting, Reviewing, and Sharing Information on Federal User Fees**

Practice area	Key considerations in GAO's design guide for federal user fees <sup>a</sup>	Key practices in federal guidance
Setting fees	Consider the extent to which the program benefits both identifiable users and the public	Under the beneficiary-pays principle, charge those who use and benefit from the good or service covered by the fee <sup>a, b</sup>
		Under the beneficiary-pays principle, offer waivers or exceptions for actions with a public benefit, as deemed appropriate by the agency <sup>a, b</sup>
	Consider mechanisms to help ensure the fee will cover the intended share of costs over time	Set fee amounts to cover the intended share of costs, including both direct and indirect costs <sup>a, b</sup>
		Select and consistently use a costing methodology <sup>c</sup>
Reviewing and updating fees	Consider how to update the fee, including how often to review the fee and what information to include in the review	Record, accumulate, and analyze timely and reliable cost data <sup>a</sup>
		Maintain readily accessible records of the collections from each user charge imposed <sup>b</sup>
Sharing information on fees	Consider the role stakeholders play	Regularly review and, as appropriate, update fees to ensure they remain aligned with costs <sup>a</sup>
		Provide opportunities for stakeholder input on fees <sup>a</sup>
Sharing information on fees	Consider the role stakeholders play	Share relevant analysis and information with stakeholders to help assure them that the fees are set fairly and accurately <sup>a</sup>
		Publish user fees to be charged for services on schedules, lists, or tables posted on publicly available websites <sup>d</sup>

Source: GAO analysis of federal guidance on user fees. | GAO-24-106188

<sup>a</sup>GAO, *Federal User Fees: A Design Guide*, [GAO-08-386SP](#) (Washington, D.C.: May 29, 2008).

<sup>b</sup>Office of Management and Budget, *Circular No. A-25: User Charges* (Washington, D.C.: July 8, 1993).

<sup>c</sup>Federal Accounting Standards Advisory Board, *Statement of Federal Financial Accounting Standards 4: Managerial Cost Accounting Standards and Concepts*, Handbook, Version 21 (June 2022).

<sup>d</sup>Department of Defense, *Financial Management Regulation, Vol. 11A, Ch. 4: User Fees*, 7000.14-R (June 2020).

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## The Corps Follows Several Key Practices for Setting Administrative Fees but Does Not Use Consistent Inputs or Fully Track Costs

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### The Corps Charges Administrative Fees to Direct Users and Offers Waivers for Some Administrative Fees

#### Charging Direct Users

The extent to which user fees fund a program should generally be guided by who primarily benefits from the program. Thus, the first step for setting fees in GAO's design guide for federal user fees is to consider the extent to which a program benefits both identifiable, or direct, users and the public.<sup>13</sup> The design guide describes the beneficiary-pays principle, which states that a program primarily benefiting direct users should be funded by fees. According to Corps headquarters officials, the direct user in a real estate transaction is typically the person or organization applying for a real estate instrument.

The Corps' policies and practices sufficiently adhere to the key practice of identifying beneficiaries when setting administrative fees and charging fees to direct users that benefit from related services. According to our analysis, all six selected districts charge administrative fees directly to applicants and users of real estate instruments in connection with real estate transactions. Corps headquarters' policy states that an applicant must pay administrative expenses for the real estate instrument, including the cost of evaluating application documents, prior to the start of other activities by district personnel. Following this direction, the three selected divisions further established policies stating that districts will charge these fees directly to the real estate instrument applicants. Our review of selected fee documents showed that districts implemented these policies by charging administrative fees to direct users. Examples include individual homeowners requesting to build docks on Corps-managed lakes and rivers, as well as utility companies requesting to run electrical lines through Corps-managed land.

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<sup>13</sup>[GAO-08-386SP](#).

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### Offering Waivers

The Corps' policies and practices also sufficiently reflect considerations in GAO's design guide for federal user fees of offering partial or complete waivers for actions with a public benefit. The design guide states that the government may wish to charge some users a lower fee or no fee to encourage certain behaviors that provide a public benefit. For example, if a state leases Corps-managed land to build a free public park, the Corps may provide a waiver for administrative fees related to that lease.

The Corps offers waivers for some administrative fees, and selected divisions and districts have put processes in place for determining when to offer waivers. All six selected Corps districts may offer waivers for administrative fees when the real estate instrument under review would primarily or exclusively benefit the Corps or provide a public benefit, according to district officials and policy documents. For example, the Northwestern Division issued a policy listing circumstances when its districts may consider offering waivers for real estate administrative fees, including when the proposed use provides a direct benefit to the Army, fulfills a mission requirement for DOD, or provides other compelling public benefits. The division's Omaha District in turn developed more specific processes that include the steps to take when considering waivers and the Corps parties responsible for preparing and processing waiver requests. However, officials in three districts said that waivers of administrative fees for real estate instruments were not common.

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### The Corps Does Not Use Consistent Inputs across Selected Districts when Estimating Costs to Set Administrative Fees

A key practice for federal user fees is to set fee amounts such that fee collections are sufficient to cover the intended portion of program costs over time.<sup>14</sup> To do so, agencies should obtain a reliable estimate of total costs by determining which activities and costs to include, according to GAO's design guide for federal user fees.

The selected Corps districts set their administrative fees based on cost estimates developed using activity, time, and labor inputs. To set administrative fees, selected districts first identify the activities the Corps will perform to enter into and oversee a real estate instrument. Next, the

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<sup>14</sup>[GAO-08-386SP](#), OMB Circular No. A-25.

districts estimate the number of hours required to perform each of these activities. The districts then multiply each activity's time estimate by an hourly labor rate to determine estimated costs. The districts set their administrative fees equal to these cost estimates, according to district officials.

Federal Financial Accounting Standards states that, as a key practice, agencies should select the method to estimate costs—which are the basis for setting the Corps' administrative fees—and then use that method consistently.<sup>15</sup> Consistent use of an established method to estimate costs provides cost information that an agency can compare year to year, according to the standards.

However, selected districts' methods to estimate costs used varying inputs for the types of activities, number of hours, and hourly labor rates.

- **Types of Activities.** The six selected districts we reviewed generally include the cost of reviewing applications for and preparing real estate instruments when setting fees, but the specific covered activities differ among districts. For example, two selected districts include the cost of compliance inspections that occur over the life of a real estate instrument, while the other four districts generally do not. In addition, five selected districts include the cost of environmental reviews conducted as part of reviewing and approving a real estate instrument, while one district does not.

Because some districts do not include all activities in their cost estimates, administrative fees across districts might differ for similar real estate instruments. Officials from one district that excludes some activities from its cost estimates told us that the district typically covers these costs with money from its Operations and Management budget. According to these officials, some of these activities are performed by Operations staff.

- **Number of Hours.** Selected districts use different information and sources to estimate the number of hours each activity will take. For example, four of the six selected districts based their real estate activity hour estimates on a headquarters resource. This resource provides an estimated number of hours needed to complete some activities related to processing real estate instruments.

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<sup>15</sup>FASAB *Handbook of Federal Accounting Standards and Other Pronouncements, as Amended, Statement of Federal Financial Accounting Standards No. 4: Managerial Cost Accounting Standards and Concepts.*



In contrast, officials from the other two selected districts told us they were aware of the headquarters resource but did not use it to develop cost estimates. Instead, these two districts estimate the number of hours needed for an activity based on the districts' needs for a real estate instrument and on observations of the time needed to complete these activities in the past, according to district officials.

- **Hourly Labor Rates.** Selected districts determine what hourly labor rates to use differently when estimating costs. Four of six selected districts use current labor rates from the Corps' financial management system when calculating costs, and the other two districts use a flat, average rate that they set in 2018.

The Corps calculates the labor rates for employees in each position within a division, according to Corps headquarters officials. The labor rate in the Louisville District, for example, ranged from \$48.28 per hour to \$186.99 per hour in November 2022, with an average labor rate of \$101.39 per hour, according to a list of labor rates in the financial management system that the district provided. These labor rates are designed to capture the full costs associated with an hour of labor by including personnel salaries and benefits, indirect costs like training, and physical overhead costs like rent and electricity.<sup>16</sup> According to officials in the four districts that use these rates, these districts use the labor rate for the position and level of an employee who would typically conduct an activity, such as preparing a lease document.

In contrast, the other two districts have used a flat, average labor rate of \$100 per hour when setting administrative fees since 2018, according to the districts' officials. District officials characterized this \$100 per hour average rate as covering staff salary and benefits and overhead costs, akin to the labor rates pulled from the financial management system. These officials told us they previously pulled labor rates from the Corps' financial management system for each employee that the districts anticipated would perform activities for a real estate instrument. But, according to officials at these two districts, this practice was burdensome and not particularly accurate because different employees than those originally anticipated would often perform the activities. However, unlike the labor rates in the financial management system, the districts do not regularly update this flat \$100 per hour rate.

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<sup>16</sup>The Corps updates the labor rates as frequently as every quarter, according to Corps headquarters officials.

Figure 3 illustrates how inconsistent use of activity, time, and labor rate inputs—including differences in the data, information sources, and assumptions—across districts could affect administrative fee amounts.

**Figure 3. Illustration of How Inconsistent Use of Activity, Time, and Labor Rate Inputs Across Districts Could Affect U.S. Army Corps of Engineers Administrative Fee Amounts**

District	Types of activities performed	Estimated number of hours to complete activities		Hourly labor rate <sup>a</sup>	=	Estimated cost, which equals the fee amount
District A	Document review	4 hours	X	\$85	=	\$340
	Compliance inspections	10 hours	X	\$105	=	\$1,050
} \$1,390						
District B	Document review	4 hours	X	\$85	=	\$340
	(District uses Operations and Management funds to cover the cost of compliance inspections)				=	\$0
} \$340						
District C	Document review	10 hours	X	\$85	=	\$850
	Compliance inspections	10 hours	X	\$105	=	\$1,050
} \$1,900						
(District uses 10-hour estimate for all activities)						
District D	Document review	4 hours	X	\$100	=	\$400
	Compliance inspections	10 hours	X	\$100	=	\$1,000
} \$1,400						
(District uses \$100 rate for all activities)						

Source: GAO analysis of U.S. Army Corps of Engineers information. | GAO-24-106188

**Accessible text for Figure 3. Illustration of How Inconsistent Use of Activity, Time, and Labor Rate Inputs Across Districts Could Affect U.S. Army Corps of Engineers Administrative Fee Amounts**

District	Types of activities performed	Estimated number of hours to complete activities	Hourly labor rate <sup>a</sup> (in dollars)	Estimated cost, which equals the fee amount (in dollars)	Estimated cost, which equals the fee amount (in dollars) Total
District A	Document review	4 hours	85	340	1390
	Compliance inspections	10 hours	105	1050	
District B	Document review	4 hours	85	340	340
	District uses Operations and Management funds to cover the cost of compliance inspections)	N/A	N/A	0	
District C	Document review	10 hours	85	850	1900

Letter

District	Types of activities performed	Estimated number of hours to complete activities	Hourly labor rate <sup>a</sup> (in dollars)	Estimated cost, which equals the fee amount (in dollars)	Estimated cost, which equals the fee amount (in dollars) Total
	Compliance inspections	10 hours (District uses 10-hour estimate for all activities)	105	1050	
<b>District D</b>	Document review	4 hours	100	400	1400
	Compliance inspections	10 hours	100 (District uses \$100 rate for all activities)	1000	

Source: GAO analysis of U.S. Army Corps of Engineers information. | GAO-24-106188

Note: Although the specific activities and numbers for each district in the figure are hypothetical, they represent the types of inconsistencies between U.S. Army Corps of Engineers districts we observed during our review.

<sup>a</sup>Hourly labor rates for District A, District B, and District C assume that these districts use labor rates from the U.S. Army Corps of Engineers financial management system.

Current Corps headquarters policy on administrative fees, issued in 2012, does not provide details on what inputs districts should use—or how to use those inputs—when estimating costs to set real estate administrative fees. This policy states that administrative fees will cover the Corps’ costs to review and oversee real estate instruments, and that such costs might include those associated with preparing, processing, and issuing real estate instruments. However, the policy does not provide direction on how to determine the specific activities to include or exclude from cost calculations. The policy similarly does not provide direction on what inputs to use to estimate hours or determine labor rates when setting administrative fees.

Complete consistency in the inputs used to set administrative fees among districts may not be possible or desirable given their different operating circumstances. For example, Kansas City District officials told us that each Corps district may have varying environmental requirements given the states and localities they cover. Nashville District officials similarly acknowledged that each district might have staff with different levels of experience, resulting in different hourly labor rate amounts for similar positions and different time estimates for similar activities.

Nonetheless, substantial differences in how districts use inputs to calculate their costs and the resulting differences in administrative fees, as demonstrated in figure 3, can raise concerns about whether the Corps calculates costs equitably across districts. GAO’s design guide states that, under the beneficiary-pays principle, the beneficiaries of a service pay for the cost of providing the service from which they benefit. More

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consistency in estimating costs across districts could help provide better assurance to the public that fees are set equitably based on inputs that use similar data, information sources, and assumptions.

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### The Corps Tracks the Amount of Administrative Fees Collected but Lacks Sufficient Information to Align Standard Fees with Actual Costs over Time

GAO's design guide for federal user fees states that, when setting fees, agencies should consider which mechanisms would help ensure that fees collected will cover the intended share of costs over time. Part of this determination involves being able to compare fees collected against actual costs. The design guide also states that unreliable cost information can skew fee-setting decisions, so agencies need reliable cost information to ensure that user fees recover the intended share of costs.

Corps districts track collections of administrative fees through the Corps' financial management system. This practice aligns with the key practice that agencies must maintain readily accessible records of the collections from each user fee imposed.<sup>17</sup> Corps Headquarters policy directs districts to record collections of real estate fees in the Corps' financial management system. This system houses all administrative fee collections for real estate instruments, according to Corps headquarters officials.

While the Corps has a process to track custom administrative fee collections, limitations in the Corps' cost tracking processes for standard administrative fees do not allow for a comparison of standard fee collections against actual costs, as discussed below.

- **Custom administrative fees.** For real estate instruments with associated custom administrative fees, districts establish a unique accounting code in the Corps' financial management system that staff can charge for all activities related to a specific real estate instrument, according to district officials. Officials also told us the financial management system provides districts with information on actual time spent, and thus costs incurred, for activities associated with a custom administrative fee for a real estate instrument. Because districts can track actual costs for these activities, they can determine whether they have collected too large or too small of an administrative fee in these

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<sup>17</sup>OMB Circular No. A-25.

cases. Officials at five districts told us that if they determine they have collected too large a fee, they refund excess funds to the fee payer. Similarly, districts may ask fee payers for additional funds if the fees already collected do not cover the costs of work to manage and oversee the real estate instrument. Officials from three districts told us they have previously done this, although officials from three districts said they will not ask for additional funds if the amount is nominal.

- **Standard administrative fees.** In contrast, selected Corps districts do not have processes in place to compare standard administrative fees collected against the actual costs of conducting activities for real estate instruments covered by these fees. Districts charge standard administrative fees for more routine real estate instruments, and the Corps' financial management system has general accounting codes associated with those activities, according to Corps officials. For example, the Corps' financial management system tracks standard fee collections by Corps project site rather than by real estate instrument, according to district officials. Because of this, one standard fee accounting code is typically linked to multiple real estate instruments, according to officials at three districts we spoke with. Additionally, selected districts have not developed other processes to track actual overall costs for activities covered by standard fees. Such a tracking process could, for example, involve tracking the actual number of hours taken to perform activities for all or a sample of licenses that the district commonly issues.

Because of these limitations, selected districts have not compared overall standard administrative fee collections to actual overall costs and cannot easily do so. Officials at five of the six selected districts we reviewed stated that standard administrative fees likely do not reflect the actual costs incurred by the Corps for standard fee activities. Officials at three districts determined this based on their experience and observations over time rather than analyses comparing overall fee collections to actual costs. Officials in two districts cited limitations of cost tracking processes as the reason for not performing this type of analysis.

GAO's design guide for federal user fees states that recording, accumulating, and analyzing timely and reliable cost data—consistent with applicable accounting standards—are critical actions to help ensure that fees recover those costs.<sup>18</sup> Because generating and maintaining reliable cost data can be expensive, the design guide states that agencies

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<sup>18</sup>[GAO-08-386SP](#).

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must consider the costs of implementing, maintaining, and using financial management systems when determining the level of cost data needed. As such, the Corps could decide whether to incorporate tracking processes for actual costs as part of an existing financial management or information system or develop different mechanisms for tracking actual costs.

By improving cost tracking processes for standard fees, the Corps can help ensure it recovers its costs and does not significantly overcharge or undercharge fee payers over time. GAO's design guide notes that standard fees may be higher or lower than the actual cost of providing a service to certain types of users. However, the use of standard fees can be more cost-effective for agencies, potentially reducing additional administrative costs to the agency, as well as fee amounts, over time. Better cost tracking could also improve the Corps' understanding of who typically performs the work and how long it takes, which could result in more accurate standard fees in future updates, as described in the following section.

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## The Corps Does Not Regularly Review and Update or Generally Seek Stakeholder Input on Administrative Fees

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### Most Selected Divisions and Districts Do Not Regularly Review and Update Administrative Fees

Reviewing fees regularly is essential to ensuring they remain aligned with the cost of the program or activity the fee is paying for. GAO's design guide for federal user fees says that agencies should regularly review their fees and update them, when appropriate, to ensure they remain aligned with costs.<sup>19</sup> A comprehensive review of a fee could include examining the methodology for estimating program costs and factors that affect those estimates—such as which program activities are included in the estimate, or the resources needed to complete those activities—and assumptions about inflation and other factors.

We found that the selected Corps districts and divisions generally do not regularly review administrative fees.

- **Reviews by districts.** The selected districts generally do not regularly review and, as appropriate, update their administrative fees. According to district officials, four of six selected districts use regularly updated hourly labor rates when setting administrative fees. However, these updates apply to a single input to the fees done by headquarters, as discussed above, and are not based on reviews of the fees themselves.

Officials from one of six selected districts told us that their district regularly reviews its administrative fees. Specifically, in 2021, the Nashville District reviewed and decided to update its administrative fees, focusing on inflation and related increases in its labor rates.<sup>20</sup> District officials told us this was the first review and update under the

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<sup>19</sup>[GAO-08-386SP](#).

<sup>20</sup>The review and update covered administrative fees for real estate instruments other than shoreline licenses and consents to easement.

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district's plan to review its administrative fees every 3 years going forward.<sup>21</sup>

The remaining five selected districts do not regularly review their administrative fees, according to district officials. Officials from one of those districts told us that their district last reviewed its administrative fees in 2014—but not as part of a regular review cycle—and last updated its fee schedule in 2004. The officials said that as a result, its standard administrative fee amounts have not kept up with increases in its administrative costs.

- **Reviews by divisions.** The selected divisions do not conduct regular reviews of their districts' administrative fees, although some divisions conduct informal reviews, according to division officials.<sup>22</sup> According to the officials, all three selected divisions conduct general reviews to assess the performance of their districts' real estate programs. Some division officials report they review administrative fees as part of these annual or biennial reviews, or they examine and discuss proposed changes to administrative fees at meetings with district staff. However, based on our analysis of review documents and interviews with division staff, they do not do so regularly. For example, Great Lakes and Ohio River Division officials told us that monthly meetings of their division's real estate functional board can include discussions of proposed updates to a district's administrative fee schedule.<sup>23</sup> However, such standing meetings are not formal reviews to assess administrative fees. In addition, South Atlantic Division officials told us the division reviews its districts' fees as part of annual reviews of each of its districts' real estate programs. However, officials from two districts from this division told us that these annual reviews have not covered administrative fees since 2018, and the reports from the

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<sup>21</sup>The Nashville District also sets standard fees for shoreline use licenses and is required to review those fees at least once every 5 years to determine if they need to be updated, based on the district's shoreline license policy. The district updated the fees in 2014 and 2019.

<sup>22</sup>Only one of the three selected divisions sets an administrative fee, and it reviewed but did not ultimately update its fee, according to officials. The division last reviewed its fee—which is for shoreline licenses—in 2018, but Corps headquarters officials prevented it from increasing the fee pending completion of the Corps' ongoing nationwide review of its shoreline management programs, according to division officials.

<sup>23</sup>The board serves as a forum to discuss districts' real estate activities. Nashville District officials told us that the board consists of division real estate staff and each district's chief of real estate. Great Lakes and Ohio River Division officials told us that the functional board did not review the Nashville District's 2021 fee update as it normally would because the update was not brought to the functional board's attention due to a vacancy in the division's leadership and a change in the district's leadership.



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annual review that the division provided us did not mention administrative fees.

The lack of regular district and division reviews of administrative fees results from a lack of headquarters policy that requires such reviews. Although headquarters officials told us that headquarters has delegated responsibility to conduct reviews to divisions and districts, headquarters' policy does not have a clear requirement for such reviews.<sup>24</sup> Specifically, headquarters' policy requires divisions and districts to monitor their costs to verify that fees are appropriate, but it does not describe the divisions and districts' monitoring roles, how often the monitoring should occur, or what it should entail. The selected divisions' administrative fee policies also have limitations regarding reviews of administrative fees. For example, one division's policy does not require reviews and updates, while the other two divisions' policies vary in the required frequency of reviews. In addition, one division's policy requires reviews for administrative fees for shoreline licenses, but not for other types of real estate instruments.

GAO's design guide for federal user fees notes that if agencies do not regularly review and, as appropriate, update their fees, they run the risk of undercharging or overcharging users.<sup>25</sup> For example, Savannah and Wilmington district officials told us that increases in the districts' labor costs since 2018 warrant an update to the districts' administrative fees. Despite this perceived need, the officials told us that the districts have not reviewed or updated their administrative fee schedule since 2018. As a result, the districts' administrative fee collections may not be ensuring that fees are aligned with costs. Moreover, the administrative fee amounts may not reflect changes to the current processes and activities required to issue and manage real estate instruments, including any efficiencies realized over time. By reviewing and updating its fees, the Corps could address these issues and would also be better positioned to

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<sup>24</sup>Although headquarters does not regularly review administrative fees, it is currently reviewing—in collaboration with divisions—administrative fees for shoreline licenses. The review is part of a broader ad hoc national review of the Corps' shoreline management program. That program aims to manage the shorelines at Corps civil works projects in a manner that ensures compatibility between private uses and public use. Headquarters initiated the review in 2020 to address regional inconsistencies in program execution. In addition to examining administrative fees for shoreline licenses, the review is examining other charges and fees collected under different statutory authorities. In March 2023, headquarters officials told us that the review has no planned completion date due to limited resource availability.

<sup>25</sup>[GAO-08-386SP](#).

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communicate with fee payers about the costs of the services it provides. Such communication could, in turn, improve fee payers' understanding of the fees.

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### The Corps Does Not Generally Provide Opportunities for Stakeholder Input across Selected Divisions and Districts

In the context of fee reviews, selected divisions and districts did not provide opportunities for stakeholder input, with two exceptions, according to Corps officials.

- First, the Nashville District met with marina owners several times during fiscal years 2018 to 2020 and received their input on the district's administrative fees, according to district officials. Partly based on this input, district officials said that the district eliminated administrative fees for real estate instruments requiring minor review efforts.
- Second, after the South Atlantic Division reviewed its division-wide administrative fee schedule for shoreline licenses, the division announced its plan to update the fees, and engaged with the public and offered means for input, according to division officials. This effort included sending informational postcards to existing shoreline license holders.

However, our review of Corps administrative fee policies found that neither headquarters nor selected divisions and districts have a requirement to provide opportunities for stakeholder input on its administrative fees. In addition, headquarters officials told us that the Corps does not have a process for soliciting such input and that headquarters does not provide opportunities for such input. In written comments, officials from the Assistant Secretary of the Army for Civil Works added that providing opportunities for stakeholder input on administrative fees makes sense only for real estate transactions that provide a public benefit or serve a project purpose, such as parks and commercial concessions. This is because it is only for such transactions that the Corps charges less than its full administrative costs and therefore has some flexibility in setting fee amounts. In contrast, the officials stated, the Corps should and does aim to set fees to cover its full administrative costs for real estate transactions that provide for exclusive private use, and therefore it does not make sense to provide opportunities for stakeholder input on administrative fees for these transactions.

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GAO's design guide for federal user fees emphasizes the importance of providing opportunities for stakeholder input on agencies' fees.<sup>26</sup> According to the guide, stakeholder input could provide meaningful feedback that could affect the outcome of changes in fees and program implementation. For example, as described above, Nashville District officials told us that partly based on input from marina owners, the district eliminated administrative fees for real estate instruments requiring minor review efforts. By providing for stakeholder input, the Corps could enhance stakeholders' support for and acceptance of the administrative fees and may contribute to improved understanding about how the fees work and what activities they may fund. In addition, given that they pay for services, payers of the Corps' administrative fees may also expect to be able to participate in related discussions and decisions about how the Corps provides its real estate administrative services, including their form or quality.

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## The Corps Does Not Consistently Share Information on or Rationale for Administrative Fees with the Public and Fee Payers

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### Not All Districts Share Information on Administrative Fees to the Public on Their Websites

Some but not all of the Corps' divisions and districts provide information about administrative fees to the public on their websites. We were able to identify information specifically about administrative fees on the websites of three of six selected districts—Louisville, Savannah, and Wilmington Districts—and one of three selected divisions—South Atlantic Division. However, we were unable to identify information specific to administrative fees on the remaining selected division and district websites we reviewed, or on the Corps headquarters website.


Four districts reported using different means than their websites, such as public forums and social media, to inform the public about their administrative fees. For example, at a 2021 local marina workshop, the Nashville Corps officials publicized an update to the administrative fee schedule. This presentation described the new administrative fee schedule categories, as well as the activities conducted by the Corps

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<sup>26</sup>[GAO-08-386SP](#).

under each category (see fig. 4). Although these measures were informative, they only provided transparency for those who attended the presentations or saw the media sources. These measures also do not provide information on an “as needed” basis—as a web site does—for users seeking information on administrative fees.

**Figure 4: Slide by U.S. Army Corps of Engineers Nashville District about Administrative Fees Presented to Local Marina Association in 2021**



## ADMINISTRATIVE FEE POLICY UPDATE



- Authority to collect Administrative Fees:
  - ER 405-1-12
  - Policy Guidance Letter # 5
  - 10 U.S.C 2695
- New policy tentative 01 JAN 2022

Category	Action Type	Previous Cost	Level of Development	Proposed Change
Minor Review Effort	Approval Letters, Sublease approvals, Financial Collateral Assignments, Approvals within current lease area involving no land disturbance	\$500	N/A	\$0
Moderate Review Effort	Renewals, Supplements, extension of term, expansion of lease area, ground disturbance, concurrence with other Federal Agencies, Assignment and Assumption of Leases	\$2000-\$5500	Standard Renewal/Supplement/Assignments	\$3000
			Expansion of lease area with no ground disturbance	\$6000
			Expansion of lease area with land disturbance	\$7000
			Expansion of lease area with land disturbance below elevation of concern	\$8000
Major Review Effort	Action requiring full coordination of District elements and concurrence with other Federal Agencies	Cost Estimate	Major Development	Cost Estimate

Source: U.S. Army Corps of Engineers (information and icons). | GAO-24-106188

**Accessible text for Figure 4: Slide by U.S. Army Corps of Engineers Nashville District about Administrative Fees Presented to Local Marina Association in 2021**

### ADMINISTRATIVE FEE POLICY UPDATE

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Moderate Review Effort	Renewals, Supplements, extension of term, expansion of lease area, ground disturbance, concurrence with other Federal Agencies, Assignment and Assumption of Leases	\$2000 - \$5500	Standard Renewal/Supplement/Assignments	\$3000
			Expansion of lease area with no ground disturbance	\$6000
			Expansion of lease area with land disturbance	\$7000
			Expansion of lease area with land disturbance below elevation of concern	\$8000
Major Review Effort	Action requiring full coordination of District elements and concurrence with other Federal Agencies	Cost Estimate	Major Development	Cost Estimate

Source: U.S. Army Corps of Engineers (information and icons). | GAO-24-106188

Key practices for user fees, in this instance DOD policy on user fees, require DOD components to publish user fees to be charged for services on schedules, lists, or tables posted on publicly available websites.<sup>27</sup> As a component of DOD, the Corps is required to comply with DOD’s policy by posting this information on the website of the entity that sets the user fees—in this case, the districts. In addition, GAO’s design guide for federal user fees says that sharing information and analysis about fees with stakeholders can help assure them that fees are being set accurately and fairly.<sup>28</sup> However, Corps headquarters policy does not provide guidance to the districts instructing them of this requirement, or about how to provide detailed, transparent information about administrative fees.

Of the four websites that we identified as including some information specific to administrative fees, only two of them, the South Atlantic Division’s and the Savannah District’s, provided any detailed information—including information required by DOD, such as tables of standard fees and lists of the types of real estate instruments requiring an administrative fee. More specifically, the division and district provided a fee schedule that covered the district’s administrative fees for shoreline licenses, but not for other types of real estate instruments. Such

<sup>27</sup>DOD’s policy on user fees (DOD 7000.14-R, Vol. 11A, Ch. 4).

<sup>28</sup>[GAO-08-386SP](#).

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information could include Corps activities necessary to complete real estate instruments or the estimated costs of those activities. However, none of the four websites included such information.

By providing such detailed information on administrative fees, as described above, the Corps could improve the public's understanding and increase the transparency of the fees. During our conversations with fee payers, two independently suggested that the Corps' official websites should provide more information about administrative fees, such as standard fee amounts, to provide clarity into the administrative fee's purpose and reason for amounts. By not providing such information to the public on the purpose and amounts of administrative fees, some members of the public and fee payers may continue to have concerns that administrative fees are being set unfairly.

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### Districts Generally Do Not Share Detailed Information So That Payers Can Understand the Rationale for Administrative Fees

In addition to making information readily available online for the public, reporting more detailed information to help fee payers understand the rationale for their fee is also important. According to GAO's design guide for federal user fees, agencies can effectively communicate with fee payers by sharing relevant analysis and information to help assure them that fees are set fairly and accurately.<sup>29</sup> In the case of the Corps' administrative fees, such information could include, at a minimum, the rationale for the fee—that is, the specific activities performed to issue and oversee a real estate instrument—and the cost the Corps expects to incur for each activity.

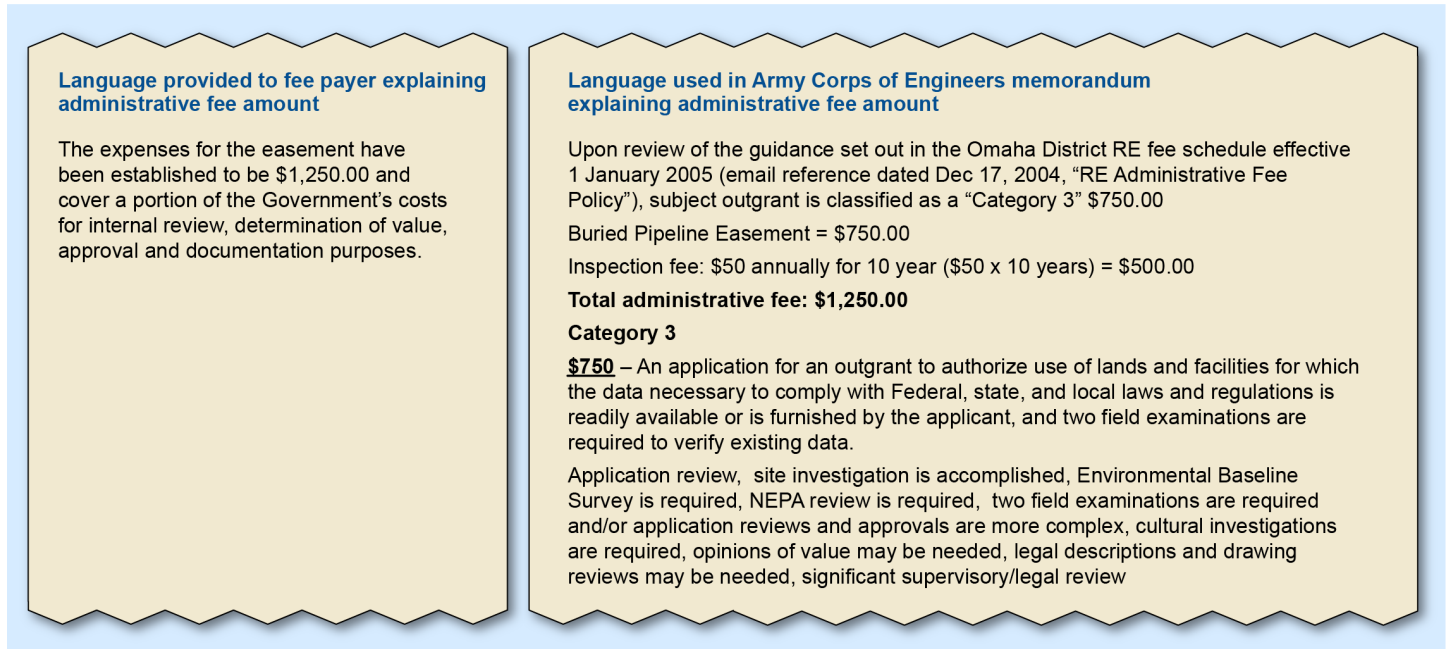
Based on our analysis, the Corps provided limited information to payers in notification letters beyond fee amounts. For example, the Omaha and Louisville districts provided fee payers notification letters that did not describe the specific activities to be performed by the Corps for their individual real estate instrument, or the estimated cost incurred by the Corps related to those activities, to justify the administrative fee. The Savannah district provided some administrative fee payers with a list of activities the Corps typically completes to issue and oversee a real estate instrument. However, these example activities were not specific to the

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<sup>29</sup>[GAO-08-386SP](#).

individual instrument, offering limited transparency into how the Corps would use the collected administrative fees—fees that, in these instances, were over \$6,000. For one fee notification we reviewed, the Corps had more detailed information on activities associated with the administrative fee and their costs—specifically a buried pipeline easement and 10 annual inspections of that easement—in their internal documents. However, the Corps did not share this detailed information with the fee payer (see fig. 5).

**Figure 5: Example of Rationale for Administrative Fee Provided to the Fee Payer versus Rationale Documented Internally by the U.S. Army Corps of Engineers**



Source: GAO analysis of U.S. Army Corps of Engineers information; GAO (illustration). | GAO-24-106188

**Accessible text for Figure 5: Example of Rationale for Administrative Fee Provided to the Fee Payer versus Rationale Documented Internally by the U.S. Army Corps of Engineers**

**Language provided to fee payer explaining administrative fee amount**

The expenses for the easement have been established to be \$1,250.00 and cover a portion of the Government's costs for internal review, determination of value, approval and documentation purposes.

**Language used in Army Corps of Engineers memorandum explaining administrative fee amount**

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Source: GAO analysis of U.S. Army Corps of Engineers information; GAO (illustration). | GAO-24-106188

Upon review of the guidance set out in the Omaha District RE fee schedule effective 1 January 2005 (email reference dated Dec 17, 2004, "RE Administrative Fee Policy"), subject outgrant is classified as a "Category 3" \$750.00

Buried Pipeline Easement = \$750.00

Inspection fee: \$50 annually for 10 year ( $\$50 \times 10 \text{ years}$ ) = \$500.00

Total administrative fee: \$1,250.00

### Category 3

**\$750** – An application for an outgrant to authorize use of lands and facilities for which the data necessary to comply with Federal, state, and local laws and regulations is readily available or is furnished by the applicant, and two field examinations are required to verify existing data.

Application review, site investigation is accomplished, Environmental Baseline Survey is required, NEPA review is required, two field examinations are required and/or application reviews and approvals are more complex, cultural investigations are required, opinions of value may be needed, legal descriptions and drawing reviews may be needed, significant supervisory/legal review

Source: GAO analysis of U.S. Army Corps of Engineers information; GAO (illustration). | GAO-24-106188

Divisions and districts do not always provide detailed information on activities and costs associated with administrative fees to fee payers because they lack policies requiring them to do so. In its policy for administrative fees, Corps headquarters does not provide direction to the districts to provide detailed, transparent information about administrative fees to fee payers. Furthermore, although the districts are responsible for the collection of administrative fees, none of the selected districts' policies require Corps officials to share detailed information with the fee payer specific to their real estate instrument, such as a list of the activities the Corps will perform for that instrument or the cost of each activity. As a result, the Corps' rationale for administrative fees has not been fully transparent to fee payers. Nine of 16 selected fee payers we interviewed stated they did not understand the purpose of the administrative fee they paid based on the notification letters the Corps provided, and 12 of 16 did not recall receiving an explanation for the cost of the administrative fee. When asked for any suggestions to improve the Corps' communication,



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seven of the 16 fee payers responded that the Corps could provide more explanation of the administrative fees in the notification letters. By providing more information to fee payers on the rationale for administrative fees, fee payers would have greater transparency into why they are being charged the fees and the basis for the fee amount they pay to the Corps. If the Corps does not provide such information, fee payers may continue to have concerns that administrative fees are being set unfairly.

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## Conclusions

The Corps collects millions of dollars in administrative fees annually from real estate users for various purposes such as concessions, utility lines, and personal lake access. GAO's design guide on federal user fees and other federal guidance lay out several key considerations and practices for effectively managing federal user fees. The Corps' divisions and districts—the entities responsible for administering these fees—have managed the fees consistently with those considerations and practices that Corps agencywide policies or processes adequately address. However, for several considerations and practices where divisions and districts do not have such agencywide direction, they have been less consistent in how they manage these fees. For example, the Corps' policies do not require that administrative fees be set consistently across divisions and districts, regular reviews of fees, or that information be publicly posted about the fees to increase transparency. As a result, fee payers are not always aware of what the fees—which can be thousands of dollars—are paying for, what they are based on, or if they were fairly calculated.

The Corps has an opportunity to improve the consistency and transparency of administrative fees by updating policies and developing processes to align with the key practices described in this report. If the Corps does not do so, fee payers may justifiably continue to question the fairness of the administrative fees that the Corps charges.

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## Recommendations for Executive Action

We are making the following six recommendations to the Department of Defense:

The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop an agencywide policy to provide details to divisions and districts on how to estimate costs to set real estate administrative fees consistently across the agency, such as defining the types of activities involved in managing real estate instruments to include when setting fees. (Recommendation 1)

The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop or update, as appropriate, cost tracking processes to more fully capture data on actual costs of real estate activities for standard real estate administrative fees. (Recommendation 2)

The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop an agencywide policy to require divisions or districts to regularly review and, as appropriate, update their real estate administrative fees, including specifying what reviews should entail and the frequency of reviews. (Recommendation 3)

The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop a process to periodically provide opportunities for stakeholder input on real estate administrative fees. (Recommendation 4)

The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop an agencywide policy to require divisions and districts to provide information about real estate administrative fees on their websites to include available fee schedules, lists of real estate instruments requiring administrative fees, and methodologies used to set administrative fee charges. (Recommendation 5)

The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop an agencywide policy to require districts to provide information to payers of real estate administrative fees that describes the purpose of the fee being charged, the activities being performed related to their real estate instrument, and, when possible, a breakdown of the total amount being charged. (Recommendation 6)

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## Agency Comments and Our Evaluation

We provided a draft of this report to the Department of Defense for review and comment. The Department of the Army provided comments in response. In its comments, reproduced in appendix II, the Army concurred with recommendations 1, 2, 3, 5, and 6. The Army noted that the Corps will address the substance of recommendation 1 by developing policy that provides further details to Corps divisions and districts on the activities to be included in the calculation of administrative costs. The Army also noted that the Corps will address the substance of recommendation 2 by utilizing the Corps' existing systems for cost tracking to capture data on its actual costs to enter real estate transactions that are for private exclusive use of federal property.

The Army partially concurred with recommendation 4, that the Assistant Secretary of the Army for Civil Works should ensure that the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop a process to periodically provide opportunities for stakeholder input on administrative fees. In its technical comments, the Army stated that providing opportunities for stakeholder input on administrative fees makes sense only for administrative fees where the Corps charges less than its full administrative costs and therefore has some flexibility in setting fee amounts. The Army explained that the Corps charges less than its full administrative costs, via a waiver, for real estate transactions that provide a public benefit or serve a project purpose, such as parks and commercial concessions. In contrast, the Army stated that for real estate transactions that provide for private exclusive use of Corps-managed property, the Corps aims to charge its full administrative costs and therefore does not have flexibility in setting fee amounts. Therefore, in its comment on the recommendation, the Army noted that the Corps will develop a process to receive feedback from stakeholders related only to real estate transactions that serve a public or project purpose. We did not revise our draft recommendation because we believe that the Corps should provide opportunities for stakeholder input on all its real estate administrative fees. Such opportunities could be beneficial even for real estate transactions involving private exclusive use because they would allow users to provide input on the Corps' management of aspects of fees other than their amounts, such as how the Corps informs users about the fees and which payment methods it allows.

The Army also provided technical comments that we incorporated, as appropriate.

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As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Secretary of Defense, the Assistant Secretary of the Army for Civil Works, the Chief of Engineers and Commanding General of the U.S. Army Corps of Engineers, and other interested parties. In addition, the report will be available at no charge on the GAO website at <https://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-2834 or [VonAhA@gao.gov](mailto:VonAhA@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Andrew Von Ah', with a stylized, cursive script.

Andrew Von Ah  
Director, Physical Infrastructure Issues

**Appendix I: Types of Real Estate  
Administrative Fees Charged by Selected U.S.  
Army Corps of Engineers Districts**

# Appendix I: Types of Real Estate Administrative Fees Charged by Selected U.S. Army Corps of Engineers Districts

**Table 2: Types of Real Estate Administrative Fees Charged by Selected U.S. Army Corps of Engineers Districts**

District	Real estate instrument type	Fee type	Fee amount(s)
Kansas City	Shoreline licenses	Standard	\$635
	All other real estate instruments	Custom	Uses schedule amounts of \$1,485, \$2,940, and \$7,630 as "jumping off points" for custom base amounts, and adds amounts for (1) management and compliance inspections (amount equals number of years in the real estate instrument's term times \$25, \$50, or \$100 per year) and (2) appraisal (custom amount equal to estimated cost of appraisal)
Louisville	Shoreline licenses	Standard	\$500
	All other real estate instruments	Custom	Fee amount based on a cost estimate specific to the individual real estate instrument
Nashville	Shoreline licenses	Standard	\$350
	All other real estate instruments:	N/A	N/A
	Minor efforts, i.e., where the applicant provides sufficient information, or such information is readily available, for the district to evaluate the application.	Standard	No fee
	Moderate efforts, i.e., more information may be needed to make a determination; coordination among district offices is likely; and consultation with other federal agencies is likely.	Standard	\$3,000, \$6,000, \$7,000, \$8,000
	Major efforts, i.e., adequate information may not be provided or readily available for the district to evaluate the application. An Environmental Assessment or an Environmental Impact Statement, including consultation with government agencies, tribes, and the public is required.	Custom	Fee amount based on a cost estimate specific to the individual real estate instrument
Omaha	Routine real estate instruments without appraisal, < \$10,000 fee	Standard	Base amount of \$300, \$500, \$750, \$1,000, or \$1,500 plus \$50 (for base amounts of \$300, \$500, and \$750) or \$75 (for base amounts of \$1,000 and \$1,500) times number of years in the instrument's term, for monitoring compliance

**Appendix I: Types of Real Estate  
Administrative Fees Charged by Selected U.S.  
Army Corps of Engineers Districts**

<b>District</b>	<b>Real estate instrument type</b>	<b>Fee type</b>	<b>Fee amount(s)</b>
	Routine real estate instruments with appraisal	Custom	Sum of a standard amount from the row immediately above and a custom amount for the appraisal that ranges from about \$8,000 to about \$12,000
	Complex real estate instruments, \$10,000+ fee	Custom	Fee amount based on a cost estimate specific to the individual real estate instrument
Savannah/ Wilmington	Shoreline licenses	Standard	\$90, \$140, \$365
	All other real estate instruments:	N/A	N/A
	Non-complex real estate instruments	Custom	Sum of custom base amount of \$1,500 to \$5,000, and additional custom amounts as applicable for legal review, appraisal, travel costs and other items not routinely accomplished by a real estate specialist
	Complex real estate instruments	Custom	Fee amount based on a cost estimate specific to the individual real estate instrument

Source: GAO analysis of U.S. Army Corps of Engineers documents and interviews. | GAO-24-106188

## Appendix II: Comments from the Department of the Army



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
CIVIL WORKS  
108 ARMY PENTAGON  
WASHINGTON DC 20310-0108

November 14, 2023

Mr. Andrew Von Ah  
Director, Physical Infrastructure Issues  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Dear Mr. Von Ah:

The Office of the Assistant Secretary of the Army (Civil Works) (OASA(CW)) received GAO Draft Report, GAO-24-106188, "Army Corps of Engineers: Better Alignment with Key Practices Would Improve Management of Real Estate Administrative Fees," dated December 2023 and appreciates the opportunity to review the draft report. OASA(CW) values the GAO staff's professionalism, collaboration, and insights demonstrated during this audit. The OASA(CW) comments on the Draft Report (Enclosure 1) and technical comments (Enclosure 2) are included within this response.

Thank you again for the opportunity to comment. My point of contact is Christina Baysinger, [christina.m.baysinger@army.mil](mailto:christina.m.baysinger@army.mil), 571-733-0053.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Connor", is positioned above the typed name.

Michael L. Connor  
Assistant Secretary of the Army  
(Civil Works)

**ENCLOSURE 1**

**GAO Draft Report Dated** October 18, 2023  
**GAO-24-106188 (GAO CODE 106188)**

**“ARMY CORPS OF ENGINEERS: BETTER ALIGNMENT WITH KEY PRACTICES  
WOULD IMPROVE MANAGEMENT OF REAL ESTATE ADMINISTRATIVE FEES”**

**OASA(CW) COMMENTS  
TO THE GAO RECOMMENDATIONS**

**RECOMMENDATION 1:** The Assistant Secretary of the Army for Civil Works should ensure that the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop an agencywide policy to provide details to divisions and districts on how to estimate costs to set real estate administrative fees consistently across the agency, such as defining the types of activities involved in managing real estate instruments to include when setting fees.

**OASA(CW) RESPONSE:** OASA(CW) concurs with comment.

The U.S. Army Corps of Engineers (USACE) will develop policy providing further details to Divisions and Districts on the activities to be included in the calculation of administrative costs to enter 10 U.S.C. 2695 transactions.

**RECOMMENDATION 2:** The Assistant Secretary of the Army for Civil Works should ensure that the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop or update, as appropriate, cost tracking processes to more fully capture data on actual costs or real estate activities for standard administrative fees.

**OASA(CW) RESPONSE:** OASA(CW) concurs with comment.

USACE will utilize its existing systems for cost tracking to capture data on actual costs of the agency to enter 10 U.S.C. 2695 transactions that are for private exclusive use of federal property.

**RECOMMENDATION 3:** The Assistant Secretary of the Army for Civil Works should ensure that the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop an agencywide policy to require divisions or districts to regularly review and, as appropriate, update their administrative fees, including specifying what reviews should entail and the frequency of reviews.

**OASA(CW) RESPONSE:** OASA(CW) concurs.



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**Appendix II: Comments from the Department  
of the Army**

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**RECOMMENDATION 4:** The Assistant Secretary of the Army for Civil Works should ensure that the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop a process to periodically provide opportunities for stakeholder input on administrative fees.

**OASA(CW) RESPONSE:** OASA(CW) partially concurs with comment.

USACE will develop a process to receive feedback from stakeholders related to 10 U.S.C. 2695 real estate transactions that serve a public or project purpose.

**RECOMMENDATION 5:** The Assistant Secretary of the Army for Civil Works should ensure that the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop an agencywide policy to require divisions and districts to provide information about administrative fees on their websites to include available fee schedules, lists of real estate instruments requiring administrative fees, and methodologies used to set administrative fees.

**OASA(CW) RESPONSE:** OASA(CW) concurs.

**RECOMMENDATION 6:** The Assistant Secretary of the Army for Civil Works should ensure that the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers an agencywide policy to require districts to provide information to fee payers that describes the purpose of the administrative fee being charged, the activities performed related to their real estate instrument, and, when possible, a breakdown of the total amount being charged.

**OASA(CW) RESPONSE:** OASA(CW) concurs.

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## Accessible text for Appendix II: Comments from the Department of the Army

DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
CIVIL WORKS  
108 ARMY PENTAGON  
WASHINGTON DC 20310-0108

November 14, 2023

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Director, Physical Infrastructure Issues  
U.S. Government Accountability Office  
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Washington, DC 20548

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Sincerely,

Michael L. Connor  
Assistant Secretary of the Army  
(Civil Works)

### **ENCLOSURE 1**

GAO Draft Report Dated October 18, 2023

**GAO-24-106188 (GAO CODE 106188) “ARMY CORPS OF ENGINEERS: BETTER ALIGNMENT WITH KEY PRACTICES WOULD IMPROVE MANAGEMENT OF REAL ESTATE ADMINISTRATIVE FEES” OASA(CW) COMMENTS TO THE GAO RECOMMENDATIONS**

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**OASA(CW) RESPONSE:** OASA(CW) concurs with comment.

The U.S. Army Corps of Engineers (USACE) will develop policy providing further details to Divisions and Districts on the activities to be included in the calculation of administrative costs to enter 10 U.S.C. 2695 transactions.

**RECOMMENDATION 2:** The Assistant Secretary of the Army for Civil Works should ensure that the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop or update, as appropriate, cost tracking processes to more fully capture data on actual costs or real estate activities for standard administrative fees.

**OASA(CW) RESPONSE:** OASA(CW) concurs with comment.

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**OASA(CW) RESPONSE:** OASA(CW) partially concurs with comment.

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**OASA(CW) RESPONSE:** OASA(CW) concurs with comment.

## **ENCLOSURE 2**

OASA(CW) Technical Comments

On Page 7 of the report it states:

The Corps' administrative fees are a type of federal user fee.

To the extent user fees are defined as fees to recover the full cost to the Government to provide a special benefit or private exclusive use to an individual or entity, not all Corps 10 USC 2695 administrative costs are user fees. Some 2695 real estate transactions are not for private exclusive use, but rather provide public use and fulfill a federal project purpose. These uses are usually recreational, like parks and commercial concessions.

In addition, OASA(CW) notes that while researching and reviewing our documents to support GAO requests for information, we did not find an Agency determination that the real estate administrative expenses being recovered pursuant to 10 USC §2695 discretionary authority are user fees/charges covered by OMB Circular A-25. One fee component that is being charged as part of each real estate transaction is for Fair

Market Value which, after collection, is sent to the U.S. Treasury. Market Value is based on a federal appraisal product, is in exchange for a real property right and is more like a land payment than an administrative cost.

On Page 20 of the report it states:

Headquarters officials told us that headquarters does not provide opportunities for stakeholder input because the Corps is authorized to charge fees to cover its administrative costs, leaving little room to act on stakeholder input on these costs and, therefore, the fees.

OASA(CW) is having difficulty reconciling the GAO guidance across all 2695 transactions. Within OASA(CW), 10 U.S.C. 2695 is considered a discretionary authority – “the Secretary may accept”. The GAO guidance moves us to mandating charging actual expenses for covered transactions.

This makes sense for all private exclusive use outgrantees. There is no public benefit or project purpose served by these uses and the government should recover the full cost to provide the special benefit. However, the same charge of actual expenses does not make sense for 2695 transactions serving a public/project purpose. The agency still needs the discretion to be able to charge based on the type of transaction, whether it be for private exclusive use or for a public or project purpose. The same is true for who should have input to the process, costs and quality of services. This opportunity should only be available to those engaged in 2695 transactions serving a public/project purpose. Likewise, tracking actual costs is only relevant or necessary for those transactions where we intend to charge actual costs.

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## Appendix III: GAO Contact and Staff Acknowledgments

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### GAO Contact

Andrew Von Ah, (202) 512-2834 or [VonAhA@gao.gov](mailto:VonAhA@gao.gov).

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### Staff Acknowledgments

In addition to the contact named above, Joanie Lofgren (Assistant Director), David Goldstein (Analyst-in-Charge), Jeff Arkin, Alyssia Borsella, Steve Brown, Geoffrey Hamilton, Jeffery Haywood, Vondalee Hunt, Paul Kinney, Josh Ormond, Kathleen Padulchick, Amy Rosewarne, Kelly Rubin, and Abby Volk made key contributions to this report.

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