

Chapter 3

User Fees in Federal Agencies

Many Federal agencies now rely on user fees for at least some funding, and the importance of user fees as a source of funding has grown sharply in recent years. Table 2 (p. 13) lists 21 relevant agencies that rely on user fees; some are concerned with food or agricultural products, some manage natural resources, and others are regulatory agencies (FSIS has regulatory responsibilities in the food and agricultural sector). User fees support at least 80 percent of agency outlays at 9 of the agencies and account for minor shares of outlays (less than 20 percent) at only 3—in those cases, user fees finance precisely defined operations that are a small part of large agencies.

Our survey of user fees at Federal agencies relies on two sources of information. First, we used the Internet to gather a large amount of published information on agency user fees, relying on agency web sites and on General Accounting Office (GAO) reports (posted at GAO and Government Printing Office (GPO) sites). Second, we interviewed financial officers at the six agencies listed in table 3 (p. 14): the Agricultural Marketing Service (AMS), the Animal and Plant Health Inspection Service (APHIS), the Food and Drug Administration (FDA), the Grain Inspection Packers and Stockyards Administration (GIPSA), the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration (NOAA), and the Nuclear Regulatory Commission (NRC).

We emphasize three facets of user-fee systems: the structure of fees, financial management of fee revenues, and efforts to control the incentive effects of specific fees.

Fee Structures

Federal agencies rely on a wide variety of fee structures. They choose different fee structures because of differences in the nature of agency functions and costs, differing concerns over the disincentive effects of particular fees, and differing relationships with relevant industries. We summarize fee structures below, using three generic elements: 1) fees based on agency inputs, like inspector hours; 2) fees based on distinct actions by the payer, such as filing an application, purchasing an international airline ticket, or requesting a test; 3) fees

based on characteristics of the payer, such as the firm's size. Some fee systems are based on combinations of these elements, while some rely on only one.

The Federal Grain Inspection Service of GIPSA uses a combination of fees (table 4, p. 15). There are three categories of charges—hourly fees that finance the direct costs of inspection and weighing services, listed in panel 1; fees charged for the materials and equipment used for specific tests and weighings, in panel 2; and, in panel 3, a set of annual fees designed to finance agency overhead costs. Hourly charges for inspection and weighing vary with the time of day, and they are higher for weekends, holidays, and overtime. Hourly charges also vary with the length of a contract: firms that commit to a specified number of inspection hours pay lower rates than firms that call for inspection services on demand (noncontract). The agency also recovers materials costs for tests separately, while labor costs for testing are recovered through the hourly charges. Finally, GIPSA recovers overhead costs through a per-ton charge on elevator volumes. The agency sets fees on a sliding scale: charges range from 9 cents per ton for the first million metric tons of grain exported by an elevator, to 8.2 cents per ton for the next 500,000 tons, and then steadily fall to 0.2 cent per ton for amounts in excess of 7 million tons.

Hourly Inspection Charges

Agencies with inspection and grading responsibilities, such as GIPSA, AMS (product grading), NMFS (seafood inspection), FSIS (overtime inspection hours), APHIS (overtime inspection hours), and the NRC (reactor inspections), often base at least some of their user fees on hourly charges for inspectors' time. Inspector hours are easy to measure, and hourly charges match fees to the decisions taken by fee payers and to the costs imposed on agencies by those decisions. Most agencies attempt to base hourly charges on “full inspector costs,” including benefits, travel and downtime, and supervisory expenses.

Hourly fees often vary with the nature of the service, the time that it is provided, and the location where it is provided (table 4). Overtime charges, for example, are higher, as are weekend charges. NMFS charges higher

fees in Alaska, in response to higher costs of doing business. Firms also pay different hourly fees to NMFS, depending on the type of inspection service, such as HACCP or non-HACCP, in-plant inspection, lot inspection, or consultation.⁵ Finally, GIPSA, AMS, and NMFS offer lower hourly rates for contract services provided to firms that commit to pay for guaranteed volumes of inspection services. A typical contract would offer a lower hourly rate if the firm commits to 40 hours per week of an inspector's services.

Varying rates allow agencies to more closely match charges to actual costs of providing services. Clearly, agencies will have to pay higher wages to inspectors for overtime and weekend work, and they may have to pay some location differentials. Some types of services may require more skilled, and therefore more highly paid, inspectors. Firms that commit to full-time inspector services impose lower costs of travel and inspector downtime on agencies. By offering rates that more closely reflect costs, agencies can also provide firms with incentives to choose lower cost services. The fee structure can therefore provide agencies with a way to manage costs. But to offer a varying hourly-rate structure, agencies will need to develop detailed information on the costs to the agency of providing different services.

Hourly charges are sometimes based upon the actual hours that an inspector spends at a plant and are sometimes based upon the agency's estimate of the hours required to complete a particular inspection task. For example, the NRC bases charges for each inspection for major types of licensees (reactors and fuel cycle facilities) on actual hours spent on the inspection, while it bases charges for materials licensee inspections on the average inspection hours for a given type of materials license. The average inspection cost is included in annual fees assessed to the various categories of materials licensees. The former approach gives major licensees a financial incentive to improve performance because inspections are performance based. However, licensees may dispute the fees assessed because they believe the number of hours or number of inspectors is excessive. There may be pressure for the agency to reduce the frequency of inspections or the number of inspectors assigned.

⁵HACCP (Hazard Analysis and Critical Control Points) refers to methods of scientific quality control; HACCP plans require different oversight techniques from Federal inspectors.

The NRC experience may be instructive for FSIS. Charges that are based on actual hours are easy to measure but can create conflicts between individual inspectors and plant managers, especially at small plants that are not under 40-hour contracts. At small plants, managers know that each additional inspection hour adds to the user fee, and they may frequently complain directly to the inspector or to supervisors. Inspectors may know plant managers well and may feel pressure to help them reduce their inspection charges.

Some observers believe inspectors whose salaries are paid by the inspected may no longer be objective protectors of public health. But by basing charges on the average number of hours required for a task, FSIS can remove such conflict by removing the link between individual inspector actions and the fee charged to the firm. This process would require the agency to develop detailed and accurate data linking typical inspection hours to a set of well-defined tasks.

Specific Fixed Charges for Tasks

The charges described above base fees on easily measurable agency inputs—inspector hours. Charges can also be based on easily measurable outputs—tasks performed by the agency. NMFS, APHIS, GIPSA, and AMS often perform lab tests and other analytical services, and they charge specific fees for each service. In some cases (see GIPSA, table 4), the fees cover only the costs of materials and equipment associated with the tests, while in other cases, the test fees are designed to recover costs of laboratory hours and of shipping. To develop accurate fees and to defend those fees against political and legal challenges, agencies whose fees vary with the type of test need to develop cost accounting information that shows how costs vary with the type of test.⁶ If fees for an activity do not accurately reflect costs for services, then if that activity expands, agency costs will grow as the agency assigns more resources to the activity. Revenues, however, will not grow as rapidly, and the agency will find itself with deficits and a potential financial crisis.

At some agencies, inspections are discrete events, set off by the arrival of a group of items to be inspected. For example, APHIS inspections of imported food and agricultural products occur when a shipment arrives at

⁶The IOAA requires that user fees be “cost-based,” and legal challenges to individual fees frequently allege that the agency has not justified the fees by tying them to cost data.

an entry point. A significant part of APHIS user-fee revenues is based on a fixed per-passenger fee on international air travel; these fees recover the costs of inspection and quarantine of international passengers and their baggage. APHIS also charges separate user fees for inspection and clearance of international aircraft and their cargo, and for inspection and clearance of ships, trucks, and their cargo in international transit. APHIS Veterinary Service fees are charged on incoming loads of imported live animals, whose arrival triggers inspection actions that differ from aircraft, ship, or truck inspections. These fees are based on an action—inspection of cargo, luggage, and carrier—rather than being directly based on inspector hours. An agency that wishes to develop this type of system must develop a costing system that allows the agency to link labor and management hours, materials, and capital to different types of inspection tasks if the agency hopes to develop accurate fees that can withstand political and legal challenges and that can be adjusted with changes in regulatory activities.

At other agencies, regulatory actions and the costs that the actions generate are initiated by filings. For example, filing a New Drug Application with the FDA leads to the substantial commitment of FDA resources for review. Similarly, when a firm files for patent or trademark protection at the Patent and Trademark Office or when a firm files for copyright protection at the Library of Congress, those actions generate expenditures because the regulatory agencies review the applications. These costs are recovered through application fees. The NRC licenses nuclear reactors and facilities, such as hospitals, irradiators, and radiographers, that use nuclear materials as part of their operations. The agency recovers the costs of license review through license fees. For those agencies, fee structures should, in principle, reflect differences in the costs imposed by different types of filings. Because application fees can, in some cases, be quite large, those agencies often aim to structure fees to avoid disincentive problems.

Charges for Overhead Recovery

Agencies may have significant components of overhead costs that are not directly caused by specific inspection or review actions. These can include costs of developing standards, performing research, managing inspection and review, and Departmental support for the agency. They can also include costs for inspection and review actions whose user fees are set below the costs of providing services, and can include pension and health benefits. Some of these costs may be paid for out

of general tax revenues. For example, GIPSA costs for development of standards and testing methods, and for compliance, are not recovered through that agency's user fees. In other cases, overhead costs must be recovered through user-fee charges, and agencies have developed a variety of ways to do so.

In some cases, overhead costs are recovered by adding overhead expenses to hourly inspection charges. AMS takes this approach when setting fees for beef-grading services, by charging a firm for overhead in direct proportion to its use of grading hours. But AMS takes a different approach for its poultry-grading services. AMS covers overhead charges through a charge on the volume of graded poultry; poultry producers, therefore, pay for overhead in direct proportion to their volume of output rather than to their use of AMS services. GIPSA recovers overhead expenses for its smaller programs, such as rice inspection and contract-compliance services, through charges based on inspection hours. But GIPSA recovers overhead expenses in grain inspection, as shown in table 3, through a separate sliding charge per metric ton of outgoing grain from export elevators.

An agency might choose to rely on a separate volume-based overhead charge out of concern that high hourly rates might lead to disincentive effects. If overhead charges lead to high hourly inspection rates, then firms may lose the connection between the services they receive and the charges they are assessed. Some might be adversely affected by a high hourly rate, and some firms might avoid using hourly services.

Many overhead activities are not directly attributable to the actions of individual firms; instead, they may be thought of simply as costs associated with having an inspection system. If such costs are unaffected by the actions of individual plants, then there will be no way of basing specific overhead charges on costs at specific firms. Provided that overhead expenses are to be financed through user fees, the financing goal shifts to setting overhead charges to recover expenses without inducing firms to change their normal ways of doing business.

Financial Management

We address three issues of financial management. First, Congress, OMB, the Treasury Department, and an agency's Department can greatly constrain the ways in which agencies can collect and spend user-fee revenues, and they can do so unintentionally. An agency that is designing a user-fee system needs to pay careful atten-

tion to obtaining the appropriate authorities to collect and spend the associated revenues. Second, providing that agencies gain the requisite authority to spend revenues, they may face problems of matching revenue flows to expenditure flows and will need to design financial methods of doing so. Finally, agencies need to design ways to adjust fee schedules over time to account for inflation, productivity growth, changes in workload, and changes in inspection goals. Some methods of adjustment are more difficult than others, and agencies should carefully design an adjustment mechanism when user-fee authority is obtained to avoid being locked into an inferior mechanism.

Spending Authority

An agency that receives the authority to collect user fees won't necessarily have the authority to spend the revenue from those fees. Some agencies, such as AMS, NMFS, and GIPSA, have the authority to spend fee revenues toward support of agency actions, thus creating a direct link between user-fee payments and corresponding Government services. Congress may, nevertheless, constrain such agencies' budgets by placing annual limits on spending authority.

Separate spending authorities are required for the income generated from reserves in trust funds or Treasury accounts, which, with specific legislative authorization, can earn interest. AMS and GIPSA each have investment authority. They can manage the investment of those funds in insured or collateralized securities, and they have the right to spend earnings on those investments.

Other agencies have the authority to collect fees but no authority to spend them; in those cases, fees will most closely approximate specific taxes. For example, Immigration and Naturalization Service (INS) and NRC fee revenues are deposited directly to the U.S. Treasury, not in agency accounts. Congress continues to appropriate funds each year for those agencies and directs them to set fees to yield revenues that match appropriated funding.

Congress may also choose statutory spending authorities that fall between the two extremes. The FDA's statutory framework for prescription-drug user fees is carefully crafted to ensure that appropriated funds support a continuing base of resources for review of new

drug applications. User fees support new spending authority for additional resources needed to expedite the review process. In this situation, user fees do not offset appropriated funds but instead are authorized to add to those funds.

Congress sometimes changes agency spending authority. APHIS originally had no spending authority for agricultural quarantine and inspection (AQI) user fees beyond that authorized by Congress in the annual budget. That constraint has changed through time. Today, APHIS can spend revenues in excess of authorized spending. But because APHIS has no trust fund to bank those funds and because the excess of revenues above authorized spending can fluctuate substantially from year to year, APHIS has difficulty planning for the use of the excess funds. In 2003, the agency will assume complete spending authority over AQI user revenues.

Expansive spending authority provides agencies with greater discretion in decisionmaking, while limitations on spending authority restrict agency discretion and place greater responsibility in the hands of Congressional and executive branch oversight institutions. Expanded agency discretion will have the greatest effects in those agencies with extensive latitude for adjusting the types and amounts of services that they deliver. For example, at AMS, the agency pursues the development of new tests, grades, and standards of identity for products. Because AMS services are voluntary and because the agency is financed largely through fee revenues, AMS has strong incentives to develop services that industry is willing to pay for. If AMS were financed entirely out of General Fund revenues, then innovations in service delivery would generate no financial return for the agency. Innovations would be less likely to be introduced except insofar as Congress directed the new actions and wrote new financing into the budget.

The NRC is a regulatory agency and, therefore, will necessarily have a more adversarial relationship with industry than AMS does. When Congress directed the NRC to collect fees without granting it spending authority over the revenues, Congress aimed to avoid creating conflicts of interest by eliminating the link between the agency's revenues and specific enforcement actions.

But limitations on spending authority may not succeed in insulating regulatory decisions from financial deci-

sions and may create a more contentious regulatory environment. Under its current user-fee system, the NRC budget is equal to total fee revenue and represents a substantial direct cost to industry. If the industry can persuade Congressional budget and appropriations committees to reduce the NRC budget, then it can directly reduce its own costs and can also limit the agency's regulatory scope. The method of agency finance means that agency regulatory activity now comes under heightened scrutiny from more committees with competing jurisdictions. Among the agencies that we interviewed, NRC clearly experiences the most adversarial relationship with its regulated firms, and a significant part of the contention may arise from the incentives introduced by the peculiarities of agency finance.

The situation stands in contrast to FDA-industry relations over user fees. The FDA is also a regulatory agency, but FDA user fees provide financing for a goal desired by both the agency and the industry—expedited review of new drug applications. Expedited review serves public health goals by putting effective new prescription drugs on the market more quickly and by lengthening the actual patent lives of new drugs, thereby making them more profitable. NRC user fees do not provide for better regulation or for services desired by industry, and thus they intensify agency-industry conflicts.

Matching Revenue to Expenditure Flows

Agencies often need start-up funds when user-fee systems are introduced. Typically, initial revenue flows may be modest because firms will not be billed until 30 days of service are provided, and then firms have an additional 30 days to pay. If firms are delinquent in payment, revenue flows will be further reduced. Agencies also may have substantial amounts of accrued liabilities for employee compensation at the time of fee introduction. Liabilities may take the form of accrued leave balances, workers' compensation payment liabilities, shutdown costs for office closures, severance pay, and unemployment costs. Congress may need to provide appropriations, in the amount of employee accrued liabilities, to a program that is moving to user fees.

Agencies also need to build reserve funds because user-fee revenues may not match expenditures throughout a year. For example, under the FDA's system, fixed per-plant and per-drug payments must be received by January 31. The result is that revenue flows are far

below expenditure flows in the first third of the fiscal year and then a large stock of funds is received at the end of the first third (Jan. 31st), that will be drawn on throughout the year.

Other flows are not as deterministic. APHIS Veterinary Service revenue flows have fluctuated unexpectedly in response to sharp fluctuations in the movement of cattle in and out of Mexico for feeding, and APHIS AQI international air passenger revenue flows could fluctuate sharply as international air travel varies. In neither case do APHIS costs vary as quickly because the fixed costs of APHIS inspection and quarantine facilities do not vary with short-term changes in volumes.

Some agencies, such as AMS, GIPSA, the Federal Aviation Administration (FAA), and the Forest Service, maintain dedicated trust funds for holding revenues. Others, such as APHIS and FDA, do not maintain trust funds but have Treasury expenditure accounts. In either case, agencies strive to maintain a reserve balance; AMS attempts to maintain a balance equal to 4 months' expenditures, while GIPSA aims for 3 months' expenditures. The desired reserve balance will be larger as flows are more variable. The FAA, whose fee revenue depends on highly variable movements in air travel, has maintained reserves of over a year. To build reserve balances, agencies will need either appropriations from Congress or a fee schedule that provides for collection of revenues for both current and accrued liabilities.

Temporal Adjustments

Agency costs and general inflation may rise over time, or new technologies may allow agencies to perform their missions with fewer resources, thereby lowering costs. In either case, agencies will need to adjust the level and structure of fees to continue to match revenues to expenditures.

The most difficult fees to adjust are those specifically written into a statute, such as those for the Customs Service and the Immigration and Naturalization Service, because an Act of Congress is required to change them. Alternatively, actual fees may be set in a rulemaking procedure with legislation providing the authority and defining the coverage of fees. Some agencies then attempt to change fees in annual rulemakings; such strategies are easier than passing Acts of Congress but are still rather cumbersome. The NRC, for example, is

currently required by statute to establish, through annual rulemaking, fees to recover 100 percent of its budget authority, less amounts for high-level waste activities for the Department of Energy. But the NRC cannot begin the rulemaking until the annual appropriation is passed, a stipulation that frequently places the agency under a very tight time schedule.

APHIS sets a 5-year schedule of annually escalating fees in a single rulemaking, thus reducing the regulatory burden on the agency and on payers. A 5-year schedule can be risky if the agency underestimates future inflation or, in APHIS' case, if a future recession leads to a sharp downturn in air travel. APHIS asserts that it has budgeted cautiously, setting relatively high near-term fees to build a reserve and provide for modest annual increases. The agency also retains the option of changing fees through the regulatory process.

Finally, an agency may try to include an automatic escalator in its fee structure. FDA fees are adjusted annually in accordance with the changes in inflation and then revisited by all parties when the law is reauthorized every 5 years.

Incentive Issues

User-fee systems that are designed to finance operations may also induce some changes in firms' behavior. Some behavioral changes affect agency costs and efficiency. For example, firms faced with a choice of paying high fees for high-cost services or low fees for low-cost services may reorganize their own operations to purchase low-cost services, thus leading to declines in total agency costs and revenues. Other behavioral changes may affect an agency's mission, and the agency may take steps to modify behavioral changes that harm the agency's mission and encourage changes that support the mission. We surveyed some examples of incentive strategies below.

Fee Adjustments and Incentives

In some cases, agencies adjust fees because they believe that high fees on some specific service will discourage behavior that is in the larger public interest. For example, APHIS does not charge fees for certain animal tests (brucellosis, tuberculosis, and *Salmonella*, for example), because the agency is concerned that fees will discourage the use of the tests. APHIS also argues that the information gained from such tests is of substantial value to the general public and not just to the fee payer.

The NRC exempts nonprofit educational institutions from fees on the grounds that their production of new knowledge through research is a public good. The FDA's user-fee program faces some potentially strong disincentives, and the agency devised a strategy to avoid them. User fees at the FDA are designed to finance expanded FDA drug-review operations. Those operations occur in two administrative phases: the Investigation of New Drug (IND) authorization and the New Drug Approval (NDA) application. Pharmaceutical manufacturers apply for IND authorization at an early research stage before they begin testing drugs for safety and efficacy. NDA applications are made after testing to receive approval for marketing. FDA does not charge IND user fees but instead finances that program out of other fees because it fears that IND fees might discourage drug research. For similar reasons, the agency also does not charge NDA fees for orphan drugs (drugs having very small potential markets), for the first drug application filed by a new business, or when the Secretary of Health and Human Services finds that a waiver is necessary to protect the public health. FDA activities in those areas are funded through other user fees. Regulatory compliance costs, such as routine plant inspections and post-market surveillance, are not funded by user fees.

FDA user-fee revenue is projected to reach \$117 million in 1998. If the entire \$117 million were to be recovered from fees on remaining (unexempted) NDA's only, the fee would be almost \$800,000 per application. There is concern that fees of this magnitude could discourage attempts to market new drugs. The statute (the Prescription Drug User Fee Act) redesigned the NDA fee to remove that disincentive by breaking the NDA fee into three parts. The charge per NDA was reduced by two-thirds to slightly over \$250,000 per application in 1998. One-third of the money was to be recovered by a fixed charge on each manufacturing plant in the industry (275 plants, for a 1998 fee of \$142,000 per plant). The other third was to be recovered through a fixed charge on each existing listed prescription drug (2,100 drugs, for a 1998 fee of about \$18,600 per listed drug). The fixed charges will not affect drug pricing or research, and they are low enough that no plants would close and no drugs would be delisted (in contrast to the meat sector, drug plants are all relatively large). The fee structure is designed to take the money from profits rather than in the form of higher prices. Drug firms accepted this strategy because the added revenue allows for accelerated review of NDA's and, therefore, in earlier marketing of approved drugs and in an effective

lengthening of patent lives. In turn, earlier marketing allows for expanded consumer benefits, and lengthened patent lives add to firms' profits.

In other cases, user-fee structures can change industry behavior in ways that do not necessarily harm the goals of public policy but do have important effects on agency finances and operations. For example, in seafood inspection, firms may choose among combinations of inspection/certification services offered by NMFS. Some have chosen to take HACCP certification while dropping continuous in-plant inspections. HACCP services are priced higher on an hourly basis because they require more highly trained inspectors and because HACCP inspectors spend more time in training and in out-of-plant review. But HACCP services also imply fewer inspector hours annually for a given volume of product, and the shift to HACCP has led to declines in NMFS revenues, workload, and inspector workforce. Agencies must be flexible enough to respond to industries' reactions to changes in fee structures and service offerings.

Congressional authorizations for fees can create incentive problems. For example, legislation requires the NRC to recover 100 percent of its budget authority through fees. Costs that are not recovered through licensing and inspection fees, including costs for activities that do not directly benefit licensees, are to be recovered through annual fees assessed to NRC licensees. For some commercial reactors, the sum of these fees can amount to \$4 million annually. At aging reactors, firms can avoid these fees by shutting down operations; thus the fee structure (quite large for operating reactors, zero for closed facilities) can affect a firm's operating decisions. Because agency costs for inspection, regulation of waste, and research do not disappear when a facility ceases operations, costs must then be recovered through increased fees on operating facilities, which then exacerbates the incentive problem. The problem is that authorizing legislation departs from the rule that those who cause changes in agency costs should be those who bear the burden of the fees.

Information and Incentives

NMFS conducts a voluntary inspection program for fishery products that is financed by user fees. The services offered include HACCP-based establishment reviews and inspections, IQA (integrated quality assurance) establishment review and inspection (IQA relies more heavily than HACCP on end-product testing, as opposed to process monitoring), continuous in-plant

inspection of processes and products, and product grading, product lot inspection, lab analyses, training, and consultation. User fees are based on service costs. Firms that choose to have no inspection pay nothing, those that choose lot inspection pay less than those that choose continuous inspection, and those that choose HACCP-based inspection pay higher hourly fees than those that do not choose HACCP.

Firms do have some incentives to choose the higher cost, more intensive inspection services. NMFS allows firms to mark products with inspection indicators. Thus, products produced under HACCP procedures can carry a label that says so. Similarly, products produced under continuous Federal inspection can carry labels that identify them, and products may also carry grades. Products that are lot inspected may carry labels that attest merely to the specific product claims made and tested for. By designing an information system for buyers, the NMFS system provides consumers with indicators of product quality and provides plants with incentives to invest in product quality.

Incentives for Gaming Fees

User fees are rarely imposed when affected industries offer strong and unified opposition. The views of industry representatives are important in deciding which activities will be financed by user fees, how fees will be structured, and how fee revenue will be used. Most agencies regulate a variety of firms with diverse interests; for example, firms in the meat industry can align among different interests represented by species (cattle, hogs, lambs, chickens, turkeys), process (slaughter, processing), or size. When fees are not based on the costs of providing service, but rather on more arbitrary bases, fee payers may form coalitions to influence the fee structure. One coalition of fee payers will offer proposals that effectively shift fee payments to other payers. Agency leadership will spend a lot of time analyzing and responding to these proposals from competing interest groups, especially when fee structures are frequently revised either through statutory review or through a rulemaking process.

The Federal Aviation Administration (FAA) has received most of its funding since 1970 from the Airport and Airway Trust Fund, which in turn receives most of its funding from a 10 percent tax on domestic airline tickets. The trust fund finances FAA's investments, such as construction and safety improvements at airports and technological upgrades to the air traffic control system. The FAA also provides a wide variety of

services, such as air traffic control, certification of new aircraft, and inspection of the existing fleet of aircraft. The 10 percent ticket tax, while administratively simple, does not reflect the costs of providing services. Passengers that pay higher fares and airlines that charge higher fares pay more in taxes to support the system than do discount passengers and airlines, even when the two groups impose equal costs on the FAA. That fee structure creates a competitive advantage for discount carriers.

A coalition of major airlines proposed an alternative fee structure: a flat fee of \$4.50 on each originating passenger, a fee of \$2 on each originating seat on larger jets and \$1 on other planes, and \$.0005 per mile of distance

between origin and destination. In a report on the proposal, the GAO noted the proposal would, not surprisingly, shift user-fee payments from the major carriers to discount carriers. A discount carrier flying directly between two cities would pay the same fees as a major carrier flying from the origin to a hub and then from the hub to the destination city. The major carriers, however, impose greater costs on the FAA by having two takeoffs and landings and by flying a longer total distance.

When fee structures cannot be closely tied to the costs of providing service, they cannot be easily defended, and agencies should expect both frequent debate about the fairness of existing fee structures and frequent proposals to shift fee responsibility to other users.

Table 2-- Selected fee-reliant Federal agencies

Agency	User fees as percent of outlays (FY96)
<i>Food and agriculture agencies</i>	
Agricultural Marketing Service	81
Animal and Plant Health Inspection Service	30
Food and Drug Administration	10
Food Safety and Inspection Service	13
Grain Inspection, Packers and Stockyards Administration	54
<i>Natural resource agencies</i>	
Bureau of Reclamation	83
Minerals Management Service	73
National Oceanic and Atmospheric Administration	13
United States Fish and Wildlife Service	36
United States Forest Service	28
<i>Other regulatory agencies</i>	
Comptroller of the Currency	106
Farm Credit Administration	95
Federal Communications Commission	73
Federal Trade Commission	65
Immigration and Naturalization Service	38
National Credit Union Administration	129
Nuclear Regulatory Commission	98
Office of Thrift Supervision	113
Patent and Trademark Office	109
Securities and Exchange Commission	86
United States Customs Service	70

Source: U.S. Government Accounting Office, "Federal User Fees: Budgetary Treatment, Status, and Emerging Management Issues," GAO/AIMD-98-11, December 1997.

Note: Some agencies receive fee revenues that exceed outlays, either because they are building reserve funds or because of unexpected changes in workloads or revenues.

Table 3—Agency interviews

Agency	Activities financed by user fees	Fee characteristics
Agricultural Marketing Service	Grading, inspection, and quality assurance for 235 agricultural commodities and for processing plants. Fees finance about 75% of AMS budget.	Modern program dates from 1946; FY97 revenues were \$164 million. Based on hourly fees for inspector services, with adjustments for guaranteed volumes. Separate testing charges; overhead recovered through volume-based charges for some commodities and hourly surcharges for others.
Animal and Plant Health Inspection Service	Veterinary Services—inspection of imported animals and birds; animal products, byproducts, semen and embryos; export certificate endorsements; tests; and establishment approvals. Agricultural Quarantine and Inspection—inspection of international passengers, aircraft, trucks, railcars, and vessels.	Overtime fees in place since 1950's, others since 1991. FY96 fee revenues were \$164 million, about 30% of APHIS budget. Cost-based charges per animal, vessel, aircraft, truck, railcar, passenger, establishment, or test, with some additional charges based on inspector hours. Exemptions for tests with significant public health impacts.
Food and Drug Administration	Expansion (compared to 1992 base) of resources for review of new drug applications. Inspection, compliance, and post-market surveillance activities are financed through appropriations. Fees are waived for orphan drugs, new businesses, and other public health reasons.	Program dates from 1992; FY96 fee revenues were \$85 million. One-third of revenue comes from application fees for new drugs, one-third from annual fees on existing drugs, and one-third from annual fees on manufacturing plants.
Grain Inspection, Packers & Stockyards Administration	Grain and rice inspection and weighing; commodity inspection for USDA purchases. Compliance, standard setting, and methods development funded through appropriations.	FY97 fee revenues: \$34 million. Based on hourly inspector charges, which vary with volume commitments and time of day or week. Test charges recovered separately, and overhead recovered through volume charges.
National Marine Fisheries Service	Fees cover all costs of inspection and agency overhead for seafood products and processing plants. Some support activities (research, standard setting, international negotiation and information) are financed through authorization.	Inspection has been fee supported since 1958. Fee revenues have varied from \$10-\$13 million in recent years. Fees are based on hourly charges for inspection, with variation for location, time of day and week, and required skills (e.g., HACCP hourly charges are higher).
Nuclear Regulatory Commission	Fees cover all agency activities except high level waste activities and certain activities for the Department of Energy. Includes licensing and inspection for: nuclear reactors and other nuclear facilities; the processing, handling, and export of nuclear material; nuclear waste repositories. Also includes research and accident and incident investigations.	Fees collected since 1960's. Fee revenues in FY97: \$462.3 million. Based on hourly charges for full costs of inspection, license fees, and annual fees charged to all active entities. Agency does not retain fee revenues, but revenues by law must approximately match full expenditures.

Source: ERS interviews with agency financial officers.

Table 4—An example of a user-fee structure: GIPSA charges

Panel 1—Inspection and weighing service

Contract Length	Monday through Friday		Saturday & Sunday	Overtime	Holidays
	6 am - 6 pm	6 pm -6 am			
	<i>Dollars per hour (per service representative)</i>				
1 year	23.00	24.80	32.40	32.40	39.00
6 months	25.00	26.80	34.40	34.40	43.60
3 months	28.00	29.80	37.40	37.40	46.60
Noncontract	33.00	35.00	42.80	42.80	52.60

Panel 2—Materials and equipment fees

Test	Dollars per test (assessed in addition to the hourly rate)
Aflatoxin (other than thin layer chromatography)	8.50
Aflatoxin (thin layer chromatography)	20.00
Soybean protein and oil (one or both)	1.50
Wheat protein, sunflower oil, or waxy corn (per test)	1.50
Vomitoxin (qualitative)	7.50
Vomitoxin (quantitative)	12.50
Class Y weighing services (per carrier)	
Truck/container	0.30
Railcar	1.25
Barge	2.50

**Panel 3—Annual administrative fee
(assessed on an accumulated basis on 10/1)**

Metric tons of inspected grain	Dollars per ton
1,000,000 or less	0.090
1,000,001 to 1,500,000	0.082
1,500,001 to 2,000,000	0.042
2,000,001 to 5,000,000	0.032
5,000,001 to 7,000,000	0.017
More than 7,000,000	0.002