

User-Fee Financing of USDA Meat and Poultry Inspection

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Chapter 1 Introduction

User fees, charges that individuals or firms pay for services received from the Federal Government, are playing an increasingly important role in financing Federal programs. In fiscal year 1996, Federal user fees accounted for 12 percent of all Federal revenues collected (Sperry, 1998). During FY 1996, the USDA's Food Safety and Inspection Service (FSIS) raised \$85 million—about 13.5 percent of total FSIS outlays—through user fees collected for overtime inspections. But FSIS and other agencies must obtain permission from Congress to collect user fees, and Congress may place specific restrictions on agencies that charge user fees.

User fees can be established in two ways.¹ General user-fee authority was established under title V of the Independent Office Appropriations Act (IOAA) of 1952.² The IOAA gave agencies broad authority to assess user fees or charges on identifiable beneficiaries by administrative regulation. Since the Act does not authorize agencies to retain and/or use the fees that they collect, fee revenues raised under IOAA must, in the absence of specific authorizing legislation, be deposited in the U.S. Treasury general fund. Authority to assess user fees may also be granted to agencies through the enactment of specific authorizing or appropriations leg-

islation, which may or may not authorize agencies to use or retain the fees that they collect.

Although FSIS has the authority to charge for overtime inspections in Federally inspected meat and poultry slaughter and processing establishments, Congress denied the agency's requests for authority to charge user fees for all meat and poultry inspections (not just for overtime) in its annual budget submissions to Congress in 1998 and in 1986, 1987, and 1988. From 1994 through 1997, the agency requested authority to charge user fees for inspections beyond a single scheduled and approved shift each day (large slaughter plants typically schedule two shifts per day). In the FY1999 budget request, FSIS asked for authority to charge user fees for all operations, except for FSIS funding of State inspections.³ Congress denied each request. The FSIS experience is not unique. The Food and Drug Administration (FDA) included requests for user-fee authority in budget submissions for over a decade before Congress granted the authority to collect fees for new drug applications in 1992 legislation.

Although the IOAA provides general guidance to agencies, it is not specific enough to determine the appropriateness or amount of a user fee in a given situation. The Federal Circuit Court of Appeals for the District of Columbia has interpreted the IOAA to mean that if a government service provides an independent public

¹Our discussion here draws on the General Accounting Office report, *Food Related Services: Opportunities Exist to Recover Costs by Charging Beneficiaries* (GAO: Washington, DC, March 1997).

²A complete list of abbreviations is provided in Appendix 1 at the end of this report.

³Plants that sell in interstate commerce must be Federally inspected, while those that sell within States can be inspected by State agencies.

benefit, then no user fee should be charged for that portion of the benefit. But according to the latest (1993) guidance from the Office of Management and Budget (OMB), if private firms or individuals receive the primary benefits from a government service and the public benefits are incidental, then user fees could be charged to the private beneficiaries for the full costs of providing the service. Those fees would be deposited in the Treasury's general fund.

Because the IOAA, the Court, and the OMB guidance do not define the terms “independent,” “primary,” or “incidental,” interpretations of these criteria often conflict, with different agencies applying the criteria in different ways. Moreover, the growth of user-fee propos-

als, programs, and revenues, set against frequent Congressional resistance to requests for user-fee authority in budget submissions suggests that there is an unsettled framework for deciding when to rely on user fees and how to apply them.

This USDA Economic Research Service (ERS) report: covers the application of user fees for financing meat inspection programs in other countries; looks at user-fee systems in other Federal agencies, particularly those with food and agricultural missions or regulatory responsibilities; reviews the relevant economics literature on user fees; and summarizes the options for food safety agencies to consider when designing and implementing a program of user fees.