
Chapter 5

Permit Fees and G-T Fee Offset

This chapter discusses establishing the permit fee, G-T fee offset, and permit fee payments.

Establishing the Permit Fee

Permit fees charged under Section 7 of the G-T Act have two components: the value of the use of Federal improvements, and the value of the use of Federal land. (See FSM 2715.13 and FSH 2709.11.) A permit fee should be calculated based on all land and improvements under permit, even sites that do not qualify for charging use fees under the Land and Water Conservation Fund Act.

The permit fee will be determined by competition: applicants will propose the fee to the Government as a percentage of gross revenue. The FS will evaluate that percentage in light of the projected net revenue for the concession, submitted by the applicant in the applicant's forecast of concessionaire income and expenses.

The FS will establish a minimum fee in the prospectus in the Evaluation Criteria. section and in FS-2700-4h, clause IV.A. The minimum fee will be stated as a dollar amount in both the prospectus and the permit. The minimum fee will establish a floor for the fee proposed by applicants, and for the permit fee paid by the holder. Although the permit fee will be proposed as a percentage of gross revenue, that percentage should equate to a value that at least equals the minimum fee, and the concessionaire will not pay a permit fee less than the stated minimum. For fee calculation purposes, "gross revenue" is defined in FS-2700-4h, clause IV.B.

The following describes the process and rationale for establishing the minimum fee.

The FS is required by law to obtain fair market value for the use of land and improvements under FS administrative control. Current fee policy is contained in FSM 2715 and 2720. FSM 2721.41 provides that FSH 2709.11, Chapter 30, should be used to compute fees for uses that involve primarily camping and picnicking (whether the facilities were developed by the FS or by non-Federal entities).

Several methods for determining fair market value are discussed in FSH 2709.11, section 31.1. These include appraisal, income, schedules, competition, and negotiation. Three methods are proposed for establishing a minimum fee for G-T campground concessions.

Establishing a Minimum Fee Based on Appraisal

Appraisal is the most professional and defensible, although the most expensive, method of valuation. See Chapter 5 of the *PPV Desk Guide*, "Step 2: Determining Whether a Formal Appraisal is Needed," for a discussion of appraisals. If available, appraisals should be used to establish the minimum fee for the use of the land and improvements. The capitalization rate, or percentage applied to the appraised value to determine the permit fee, should be based on current market data.

If current market data are unavailable, Office of Management and Budget Circular A-25, which implements Federal statutory authority for charging fees, provides that the 30-year Treasury rate, also known as the long-term bond rate, may serve as the capitalization rate. As of July 1, 1997, the 30-year Treasury rate was approximately 6.78 percent. Check the current rate at the time of fee determination. Examples of minimum fee calculations follow.

Fee Component for the Use of Government Land

Acres of land to be permitted = 27

Appraisal value of land = \$3,000 per acre

30-year Treasury rate = 6.78 percent

Fee = value of land times Treasury rate

Fee = $27 \times \$3,000 \times .0678 = \$5,492$

Fee Component for the Use of Government Improvements

One approach to valuation is replacement cost less all forms of depreciation:

Replacement cost = \$1,000,000

Depreciation = 80 percent
= $\$1,000,000 \times .80$
= \$800,000

Current value = \$1,000,000
\$800,000
= \$200,000

Fee = value of improvements times Treasury rate

Fee = $\$200,000 \times 0.0678 = \$13,560$

Combined fee

Combine the components for the use of the land and the use of improvements to obtain the minimum fee: $\$5,492 + \$13,560 = \$19,052$.

Establishing a Minimum Fee Based on Gross Receipts

Basing recreation concession fees on a percentage of gross receipts is a common practice for Federal as well as state agencies. If appraisals are unavailable, the minimum fee may be based on the three-year average of gross receipts times the current 30-year Treasury rate, as shown below.

<u>Year</u>	<u>Gross receipts</u>
1994	\$120,500
1995	\$125,600
1996	\$130,300

Average = $\$376,400 \div 3 = \$125,467 \times .0678 = 8,506.66$.

Establishing a Minimum Fee Based on a Schedule

An alternative to using the average of gross receipts times the 30-year Treasury rate is to develop a regional or market area schedule of minimum fees, based on capitalization rates for comparable concessions on land managed by the FS, other Governmental entities, and the private sector.

G-T Fee Offset

Once the permit fee is calculated, it may be offset in whole or in part by the value of Government M&R, as defined in FS-2700-4h, that is performed at the holder's expense. The permit defines "maintenance," "reconditioning," "holder maintenance or reconditioning," and "Government maintenance or reconditioning" as follows:

Maintenance is preserving; keeping in proper condition; or rebuilding, repairing, or replacing. Maintenance does not include construction of new facilities.

Reconditioning is restoring a facility to its original condition, or to meet current national or state standards, such as UFAS, ADMG, the Uniform Building Code, or state water quality standards. Reconditioning does not include construction of new facilities.

Holder maintenance or reconditioning is maintenance or reconditioning that NEITHER MATERIALLY ADDS TO THE VALUE OF THE PROPERTY NOR APPRECIABLY PROLONGS ITS LIFE. The work serves only to keep the facility in an ordinary, efficient operating condition. From an accounting or tax perspective, it is work that may be expensed, but not capitalized.

Examples include but are not limited to interior decorating, interior painting, vandalism repair, repair of broken windows, light bulb replacement, cleaning, unplugging drains, drivebelt replacement, preventive maintenance, lubrication of motors, greasing, servicing, inspecting, oiling, adjusting, tightening, aligning, watering, weeding, sweeping, waxing, refinishing picnic tables, routine housekeeping, and general snow removal.

In fulfilling these responsibilities, the holder shall obtain any licenses and certified inspections required by regulatory agencies, and follow state and local laws, regulations, and ordinances and industry standards or codes applicable to the permitted operation.

Government maintenance or reconditioning is maintenance or reconditioning that ARRESTS DETERIORATION AND APPRECIABLY PROLONGS THE LIFE OF THE PROPERTY. From an accounting or tax standpoint, the expenditures may be capitalized.

Examples include but are not limited to installing a new roof, new floor, or new siding; rebuilding boilers; replacing pipes, pumps, and motors; repairing or maintaining the paths, lands, walks, walls or landscaping adjacent to other Government-owned structures; and performing exterior painting and refinishing. Exterior painting that repairs unsightly visual marks caused by everyday use does not meet the definition outlined above.

Government maintenance or reconditioning, whether performed by the holder or the FS, is at the sole discretion of the authorized officer.

(Appendix 5A, pages 5 - 6-7, contains a sample list of Government M&R projects.)

Alteration of Government Improvements during M&R

Any materials, equipment, or fixtures made a part of existing Government improvements during holder or Government M&R become the property of the United States (see FS-2700-4h, clause II.E). However, it is unlawful for the FS to accept construction of new facilities by the holder, just as it is inappropriate to use the cost of new construction to offset the permit fee.

If approved, new facilities built by the holder would be owned by the holder, and therefore could not be included

in the opportunity advertised in the prospectus. If these new facilities are an integral part of the operations, it could be difficult to attract applicants, thereby reducing competition for the concession. If new construction is needed at the site and FS funding is not available, consider including the site in PPV.

G-T Fee Offset Agreement and Certification

Before issuance of the permit and before each succeeding operating season, the FS and the concessionaire should enter into an annual G-T fee offset agreement that includes the list of Government M&R projects and their estimated cost developed by the FS and included in the prospectus. The agreement should enumerate the portion of the fee that will be offset by Government M&R and should specify which projects are to be used for offset that year. The agreement should also specify whether the concessionaire will be required or has the option to enter into a collection agreement with the FS to perform the work. (The G-T fee offset agreement should not be confused with the holder M&R plan referenced in Chapter 3, which lists projects that are not eligible for fee offset.)

The following is a list of additional provisions that must be included in any G-T fee offset agreement under which the holder will perform some or all of the work:

- ☐ Standards for completion of the projects.
- ☐ Examples of allowable costs, such as salaries and wages, travel, vehicles and equipment, materials and supplies, subcontracts, and overhead directly associated with a G-T fee offset project.
- ☐ A statement that upon a determination by the FS that a project has been satisfactorily completed, the holder must submit documentation of its actual cost to the FS and must certify that the representations in the documentation are accurate and complete.
- ☐ A statement that the certification must be signed and dated, and must state that failure to sign the certification will vitiate the fee offset claim.

- ☐ A statement that the FS will verify the documentation before giving any fee offset credit.
- ☐ A statement that the FS reserves the right not to grant any fee offset if any of the representations in the documentation are inaccurate or incomplete.

The G-T fee offset agreement should become a part of the permit. Appendix 5B, pages 5- 8-9, contains a sample G-T fee offset agreement.

Claims for fee offset must be documented using FS-2700- __, “Granger-Thye Fee Offset Certification Form.” This form requires the holder to itemize and document allowable costs directly associated with each G-T fee offset project and to certify as to the accuracy and completeness of the representations in the documentation supporting the fee offset claim. The certification form is subject to all the provisions in the fee offset agreement executed by the FS and the holder. Appendix 5C, pages 5-10-11, contains a sample certification form.

Long-Term Government M&R

The FS must plan for replacement of its capital improvements. An M&R plan should be developed estimating the year for replacement of various components. If the cost of a project exceeds the amount of the permit fee eligible for offset in a given year, establish a modified fee schedule for accelerated G-T fee offset work.

Establishing a modified fee schedule for accelerated G-T fee offset work allows enough funds to be collected in the first year of operations to complete a large project. Establish the fee schedule so that there is a large fee payment the first year and a smaller fee paid in subsequent years. For example, the minimum fair-market-value fee is \$10,000 per year, and the permit term is five years. Develop a fee schedule that requires an initial annual payment of \$30,000 and four subsequent annual payments of \$5,000 per year. The larger payment must be made in advance, not in arrears.

Include the modified fee schedule as a separate evaluation criterion. (See Evaluation Criterion 7 in Chapter 3, page 3-5.)

The cost of the project should be documented in the G-T fee offset agreement. Either the holder may perform the work, or the FS may perform the work under a collection agreement. If the FS performs the work, the funds should be deposited into a cooperative work account (FS accounting code CWFS), and expended each year in the following year.

2. FS Performs Work under Collection Agreement

This second alternative allows the FS to obligate enough funds to complete a large project by the end of the permit term. When the FS anticipates that a Government M&R project will extend beyond the current fiscal year, the FS may require that permit fees be paid into a cooperative work account (FS accounting code CWFS) under a binding collection agreement, in order for the FS to perform the work. To use the funds for financing long-term Government M&R, the specific project and its cost must be obligated each fiscal year for the next fiscal year in the G-T fee offset agreement (unobligated funds go to the Treasury at the end of each fiscal year).

Offset for Concessions Involving Multiple Sites

All or part of the permit fee may be offset by the value of eligible MAR performed on the land and improvements authorized under a G-T permit. Thus, if multiple sites are authorized under one permit, the value of Government M&R performed at any site under the permit—even those that generate very little of the permit fee—may be used as offset. However, where multiple sites are authorized under more than one permit, each permit fee may be offset only by the cost of Government M&R performed at sites under the corresponding permit.

Collection Agreements for G-T Fee Offset Projects

Collection agreements may be used for G-T fee offset projects, i.e., the concessionaire may enter into an agreement with the FS to pay the FS to

perform Government M&R on the land and improvements covered by the permit, and the value of that work may be used to offset the permit fee. Collection agreements for G-T fee offset projects may be either optional or required. The FS may require concessionaires at their expense to recondition and maintain the land and improvements covered by the permit. The FS has the discretion to determine how that authority will be implemented, including requiring the concessionaire to deposit money under a collection agreement for Government M&R performed by the FS.

The amount deposited in a given year under a collection agreement for G-T fee offset work should not exceed the permit fee for that year. Therefore, avoid entering into collection agreements for Government M&R predicated on a certain level of concession revenue (i.e., agreements that the concessionaire will pay the FS 50 percent of all concession revenue over \$100,000 for Government M&R performed by the FS). In addition, collection agreements for Government M&R predicated on a certain level of concession revenue may result in assessment of an inappropriate permit fee. Fees for G-T permits must be based on the value of the use of land and improvements under permit, rather than on a percentage of revenue over a certain threshold.

Chapter 6 discusses in more detail the legal parameters that apply to the use of collection agreements.

Permit Fee Payments

Permit fees should be paid in accordance with requirements in the permit and agency fiscal policy. These include:

- ☐ Payment in advance of the authorized use.
- ☐ Prompt reimbursement (as required by applicable law).

Payment should be required without demand. The payment schedule must be included in the

permit (see FS-2700-4e, clause IV.C). Follow the schedule below for permit fee payments. Where the estimated annual fee is \$2,500 or less, all of the permit fee should be paid in advance of the operating season. Where the estimated annual fee is more than \$2,500, a portion of the fee should be paid in advance of the operating season, and the remainder over the course of the operating season.

<u>Estimated Annual Fee</u>	<u># of Payments</u>	<u>Frequency</u>
Through \$2,500	1	Prior to opening
\$2,501 - \$10,000	3	Prior to opening, at End of first 30 days, And at mid-season.
Over \$10,000	Variable	Prior to opening and every 30 days through operating season.
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Advance and interim permit fee payments should be kept in a suspense account. The holder must be reimbursed for these fee payments up to the amount of any offset claims approved by the FS during the operating season. The FS must reimburse the holder within 30 days of approval of an offset claim, unless the holder asks the FS to hold the funds and apply them to the next fee payment.

At the end of the operating season, determine the final fee by reconciling fee payments as necessary against actual concession revenue reported by the holder, in accordance with FS-2700-4h, clause IV.D, and offset claims approved by the FS. (Appendix 8A contains a standard form for the collection of use and revenue data. Concessionaires may use this form or provide the same data in an alternate format.)

Any excess of the final fee over the value of offset claims approved by the FS should be returned to the Treasury. Funds in a suspense account may not be obligated for future years.