



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Request for Proposals—January 20, 2023

User Fees

The Administrative Conference of the United States (ACUS) is accepting proposals from individuals interested in serving as a consultant to produce a report on the issue of agencies' implementation of congressionally directed user fees.

Project Description and Consultant Responsibilities

Federal agencies are funded primarily through appropriated tax revenue, user fees, or some combination of the two. User fees are common across the government, and agencies have had broad statutory authority to make rules prescribing fair and reasonable fees for the services they provide.

There was significant interest in the 1980s in expanding application of user fees, which prompted ACUS in cooperation with the Office of Management Budget (OMB) to undertake a study of user fees. This resulted in Recommendation 87-4, *User Fees*, which identified basic principles for Congress to consider in revising or enacting user fee legislation, for OMB to consider in providing guidance on user fees, and for agencies to consider in establishing new or revising existing user fee programs.

There have been significant developments in the 35 years since ACUS last addressed user fees. Many agencies have undertaken rulemakings to establish new or revise existing user fee programs, demonstrating significant variation in how agencies determine fair and reasonable fees, how they solicit public input on proposed fee changes, and how often they review their fee programs. Some rulemakings have attracted significant public attention. There has also been a growth in scholarship examining how agencies choose to design and implement user fee programs; how those choices affect the fairness, accuracy, and efficiency of agency decision making; how user fees affect agency behavior; and how user fees impact the behavior and wellbeing of users and the general public, including members of historically underserved communities.

Among other topics, this project will examine how:

- Congress and agencies determine when user fees are appropriate;
- Agencies determine fair and reasonable user fees for specific programs;
- Agencies engage with the public in determining user fees; and
- Agencies review their user fee programs.

The study and resulting recommendations will recommend best practices for agencies—and Congress, if warranted—to consider in designing and implementing user fees in administrative programs. The focus of this project is not whether agencies may or should draw on user fee receipts absent congressional authorization or outside the process for congressional appropriations, or what constitutional limits may apply to fee-supported agency activities even when congressionally approved.

The draft report will be completed by August 15, 2023, and the consultant(s) will thereafter be expected to work with Conference staff and committees as the Conference develops recommendations from the report in time for the Conference’s December 2023 plenary session.

The Conference may select a single consultant or assemble a team of consultants depending on the proposals it receives. Consultants will receive between \$8,000 and \$25,000, plus a budget for related expenses, depending on the number of consultants and allocation of responsibilities. The total value of consulting fees for this project will not exceed \$25,000, to be apportioned in accordance with the number of consultants and division of responsibilities.

Submitting a Proposal and Evaluation Criteria

If you are interested in serving as a consultant for the report, send an email to Alexandra Sybo (asybo@acus.gov) with the phrase “ACUS Project Proposal” in the subject line. Attach your curriculum vitae to the email, along with a short (ideally no more than one page) statement identifying what you see as the primary issues that the report should address. **All responsible sources must submit a proposal by 5:00 p.m. Eastern Time on February 10, 2023, in order to be guaranteed consideration by the agency.**

Proposals will be evaluated based on quality, clarity, and the proposer’s qualifications. ACUS has a strong preference for consultants who have previously authored scholarly work on user fees, agency funding, or related issues.