United States Department of Agriculture Research, Education, and Economics

ARS 🗆 CSREES 🗆 ERS 🗆 NASS

Policies and Procedures

| Title: | Guidance and Instructions for the Collection and Use of Fees for Revocable Permits and Easements |
|---------------------|---|
| Number: | 244.0-ARS |
| Date: | January 21, 2004 |
| Originating Office: | Facilities Division, Real Property Management Branch, AFM/ARS |
| This Replaces: | Bulletin 01-250, which expired February 28, 2003 |
| Distribution: | ARS Offices in Headquarters, Areas and Field Locations |

This issuance provides guidance and instructions for the collections and use of fees for revocable permits, easements, or other special use authorizations for the occupancy or use of land and facilities under the custody and control of ARS.

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1. Introduction

The ARS appropriation account in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, (Act) authorizes ARS to charge user fees, commensurate with the fair market value, for any revocable permit, easement, or other special use authorization for the occupancy or use of land and facilities under the custody and control of ARS (including land and facilities at the Henry A. Wallace - Beltsville Agricultural Research Center). These instruments are to be issued by Real Estate Warrant Officers, as authorized by law. The Act provides for fees to be credited to an appropriation account and remain available until expended for authorized purposes. Congress, as a part of the ARS annual appropriation, must renew this authorization annually.

This P&P does not apply to Quarters rental rates, which are established by surveys conducted by the National Business Center of the Office of the Secretary, Department of Interior, under their Quarters Rental Program.

2. Authorities

- Title V of the Independent Offices Appropriations Act of 1952 (31 U.S.C. 9701)
- OMB Circular No. A-25, dated July 8, 1993 Government policy regarding fees assessed for the use of Government goods or resources
- Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act.
- ARS Real Property Manual 245.1, Chapters III, and IV

3. Intent

The authorities outlined in the P&P are intended to make Federally-owned and leased land and facilities under the custody and control of ARS, available to non-Federal as well as Federal entities, in support of the ARS research mission or by Presidential mandate. The Act does not give ARS new authority to lease Federally owned land and facilities, including space in ARS-controlled buildings, to non-Federal entities. The new authorities are not to be viewed as a means for generating new revenues. The Act does give ARS new authority to retain the User Fees (Fees) collected under ARS' current authority to issue revocable permits and easements for the use of these facilities.

4. Issuance of Revocable Permits, Easements, and other Occupancy Agreements

Revocable permits are to be used to make Federally-owned and leased land and facilities under the custody and control of ARS, available to non-Federal and Federal entities as outlined in ARS Real Property Manual 245.1, Chapter IV, Revocable Permits. Easements are to be used to make Federally-owned land available for road and utility rights-of-way as outlined in ARS Real Property Manual 245.1, Chapter III, Grants of Easement. Only Real Estate Warrant Officers are authorized to issue revocable permits, easements, and other special use occupancy agreements as outlined in the Real Estate Warrant Program, P&P 241.2.

5. Application for Revocable Permit or Easement

Requestor will submit an application for a revocable permit or easement by utilizing the appropriate Form, as shown in Exhibit 1. Completed application will be submitted to the Area Property Manager Officer.

6. Collection of User Fees

In general, the fair market value for a Fee for revocable permits is less in value than the fair market value for rent under a lease agreement, since the permittee bears the risk of the permit being revoked. The collection of Fees is tied to the issuance of the revocable permit, easement, or other authorized special use occupancy agreement.

• **Revocable Permits:** Fees for revocable permits are normally collected in advance or simultaneously with the rendering of services. Retention of Fees is limited to the fiscal years in which ARS has express authority to retain Fees. ARS may continue retention of Fees, only if Congress renews this authority on an annual basis. Fees shall be applied under the following circumstances (list is not conclusive):

Non-Federal use of land: Private construction (such as ingress/egress); archeological digging and soil borings/water/architectural diggings; private bike/road races; Non-Federal use of facilities: Antennas; parking spaces; media (such as for TV, movie, or video production)

• **Easements:** An easement is a vested property right granted for a term of years. The consideration for the granting of an easement usually is collected in one lump sum at the

time of the recording of the easement. Fees/consideration shall be applied under the following circumstances (list is not conclusive):

Utilities (private, non-Federal, university); roads, sidewalks, hiker-biker paths; rightof-way for business and private development; conservation easement; railroads; dam development and well drilling; airport and airspace

7. Circumstances Warranting No Collection of Fees

• **Revocable Permits:** The following circumstances are deemed to warrant **no** collection of Fees for the establishment of a revocable permit:

Vending services space; nature activities; parking spaces (under prior agreement); use of various facilities by REE employees, employee association functions, credit union meetings, union meetings, etc; school/non-profit public bike/road races; soil borings/water/archeological diggings benefitting the Federal government; government construction; use of land by Federal employees, non-Federal entities (such as the Farmers' Market) and non-profit organizations (4-H, agricultural events, etc.)

• **Easements:** The following circumstances are deemed to warrant **no** collection of Fees for the establishment of an easement:

Fence lines; right-of-way for private residences who are land-locked

8. Recommended User Fees

Fees will generally fall under one of the following three methodologies:

- **a. Flat Fee** A Flat Fee may be applied to cover the Government's cost to process, monitor and perform final inspection for a request to use ARS-controlled land or facilities.
 - Processing a request normally takes ARS staff two hours. The cost will be based on a GS-12, Step 1 salary.
 - Processing, monitoring, and performing final inspection normally takes ARS staff four hours. The cost will be based on a GS-12, Step 1 salary.
- **b.** Fair Market Value Fee (FMV) The FMV Fee is generally applied when the temporary use of ARS-controlled land and facilities is for a period of less than 30 days. The Fee is commensurate with what is charged for similar property by other landowners or vendors in the area.

- Market Survey: The Fee is established by checking the price charged by other landowners or vendors in the area. For example, the Fee applied for the use of an ARS conference room is based on the rate charged for a similar size conference room by local hotels or conference facilities in the area.
- **Appraisal:** A formal appraisal should be prepared for the long-term use (over 10 years) of ARS-controlled land and facilities, such as road or utility easements or the placement of antenna on ARS facilities.
- **c. Indirect Research Costs (IRC)** The Location's IRC rate is generally applied when the use of ARS-controlled property is equal to or exceeds 30 days. The Location's IRC rate is calculated annually for the ARS Annual Resources Management Plan. IRC represents the cost for the basic operations ("open the door") of the Location. IRC includes the costs of utilities, facility operations, janitorial services, security, etc. Shared research costs should be included, if applicable. IRC is generally charged to other Federal agencies; consult P&P 324.0, ARS Reimbursable and Trust Funds Agreements, for such actions.

9. Insurance Claims

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Damage to ARS-controlled property, while in use under a revocable permit or easement, are the responsibility of the permit or easement holder or a third party representing that individual or organization, such as an insurance company. Direct payment to the Government for damages are deposited directly into the General Treasury and cannot be used to repair the damaged property. Therefore, the permit holder or insurance company should make arrangements to have the property repaired or restored to its original condition, in coordination with the ARS property management officer.

For example, an insurance company would be required to make arrangements for the damaged Government property to be repaired by a qualified contractor, rather than issuing the Government a settlement check.

10. Document Tracking Number

ARS property management officers issuing permits or easements are reminded that a document tracking number is required on each revocable permit or easement (or other authorized special use occupancy agreement), in order to process the Fee. The following tracking number system will be utilized:

| Real Property Rental Contract No. (Fixed # = 57) | 4 th Level of Mode Code | FY Executed-Last Digit | Control No's (0-999) | |
|--|---------------------------------------|---------------------------|-------------------------|--|
| Example: 57 | 1930 | 0 | 089 | |

- Tracking numbers will be positioned on the top right corner of the easement (Form ARS-495) or where specified on the revocable permit (Form ARS-494).
- A control number should not be re-used for a period of at least 5 years.
- A log on tracking numbers should be maintained by the Area Property Management Officer.
- **NOTE:** This tracking numbering system replaces the numbering requirements specified in the ARS Real Property Manual 245.1, Chapter III, Grants of Easement, Item 15.a.f., and Chapter IV, Revocable Permits, Item 12.b.

11. Payment Submission Requirements

Fee payments must be made in advance of services rendered. These payments are to be made in the form of a check or money order with the document tracking number cited on the form of payment. Checks and money orders are to be made payable, in U.S. funds, to the Agricultural Research Service. Receipts may be provided to requesters for their records or for billing purposes.

12. Responsibilities

Accounting for Collection and Use of Fees

Fee collections, as defined under this authority, are classified as "no-year" and are available until fully expended. These funds will be allocated under the **X89** Fund Code.

The following guidance is provided in order to standardize the reporting of these collections in both the Foundation Financial Information System (FFIS) and the Agriculture Research Information System (ARIS).

a. Location Administrative Officer/Technician (LAO/T)

• **ARIS** - Enter Form ARS-425, Authorization To Apply For and Use Funds From Outside Sources. Standard information is listed below and shown in Exhibit 5. The start and end dates shown on Form ARS-425 should correspond to the period covered on the

revocable permit or easement document. The period covered for permits cannot exceed five years. Since easements are executed for longer periods of time, but payment is made in one lump sum, consider these executed for one year. Other special use occupancy agreements should be handled the same as easements, if they exceed five years. (For existing antenna permits approved for 10 years, consult the Facilities Division, Real Property Management Branch for guidance.)

| Source of Funds: | 3349 |
|--------------------|---------------------------------------|
| Type of Agreement: | Trust |
| Purpose of Funds: | Services Only |
| Remarks: | State purpose for collection of Fees. |

Indirect Program Support Cost (IPSC) is **not** assessed for Fee collections. For further ARIS information, refer to Chapter 4, Section C. The ARIS Manual can be viewed online at:

http://www.npstaff.ars.usda.gov/ARIS/Manual/

• **LOTS** - Establish records and perform funds control for the Fees.

b. Area Budget & Fiscal Office Responsibilities

1. **FFIS** - Establish program codes in the FFIS, ACCS tables for collection of Fees and obligation of the funds. Data must be entered on the following tables:

PROGRAM REFERENCE TABLE - PGMT

ACTION: Enter N

BUDGET FISCAL YEAR: Enter the **BFY** for the accounting strip you wish to add, normally the current fiscal year

PROGRAM: Enter the 9 DIGIT PROGRAM CODE

PROGRAM TYPE: Enter the 2-digit program type, which is 29

PROGRAM NAME: The first 11 characters should be the **VENDOR CODE** of the entity providing the funds to ARS. After skipping a space, the last 18 characters should be the **PROVIDER'S NAME**

SHORT NAME: Enter the NUMBER OF THE LEASE, PERMIT, ETC.

DEFAULT VALUES REFERENCE TABLE - DVAL

ACTION: Enter N

FISC YR: Enter the CURRENT FISCAL YEAR

H/L: Enter L

BFYS: Enter the BUDGET FISCAL YEAR of the Program Code

PGM: Enter the **PROGRAM CODE** you entered on PGMT

ACCOUNTING STRUCTURE CODE CROSS REFERENCE TABLE - ACXT

ACTION: Enter A

FY: Enter the **CURRENT FISCAL YEAR**

AGENCY: Enter 03

ACCOUNTING STATION: Enter 0091

ASC1: Enter the FEEDER SYSTEM ACCOUNTING CODE

SEC1: Enter 2-DIGIT AREA CODE

BFYS: Enter the **2-DIGIT BUDGET FISCAL YEAR**

PROGRAM: Enter the **PROGRAM CODE**

- 2. Enter BL Document (Budget Level) into FFIS for the authorized funding level for the program code.
 - **Deposit of Collected User Fees** Upon receipt of check or money order, prepare Form ARS-326-1, Record of Public Funds Received and Transmitted For Deposit. (Financial Management Manual, Exhibit 26-3). The Budget Object Class for collection of User Fees is **0250**.
 - **ARIS** Upon collection of Fees, enter the receipt of funds on the Budget Page of Form ARS-425.

c. Budget & Program Management Staff (BPMS)

• Estimate fiscal year Fee collections in preparation for the Agency's Apportionment and Reapportionment Schedules (SF-132) for the Execution of Funds report provided to the Office of Management and Budget.

Treasury Symbol = 12X1400, No-Year authority. Funds available until fully expended.

- Prepare Allotment Advice AD-704 for entering AA (Appropriation and Apportionment Document) and PA (Appropriation Approval Document) into FFIS (Refer to Exhibits 2, 3, & 4).
- Upon notification by receipt of form ARS-425 Budget Page Transactions, create an allocation (Form AD-705) to officially authorize the use of funds (Refer to Exhibits 6 & 7).
- Reallocate carryover from prior year balances after the appropriate tables have been populated in FFIS.
- Enter BE (Budget Execution Document) into FFIS (Refer to Exhibit 8).

d. Fund Holder

Designated fund holders may use fees collected for easements and revocable permits in accordance with authorized purposes. Appropriate financial management and accountability procedures for use of the fees must be accomplished in accordance with Agency policy as outlined in ARS P&P's 320-1 and 325-1.

JAMES H. BRADLEY Deputy Administrator Administrative and Financial Management

EXHIBITS

- Exhibit 1 Application for Revocable Permits and Easements
- Exhibit 2 Sample Form AD-704 Allotment Advice
- Exhibit 3 Sample FFIS AA Document (Appropriation and Apportionment)
- Exhibit 4 Sample FFIS PA Document (Apportionment Approval)
- Exhibit 5 Sample Form 425 Authorization to Apply for and Use Funds From Outside Sources
- Exhibit 6 Sample Form 425 Budget Page Transactions
- Exhibit 7 Sample Form AD-705 Advice of Allocation of Funds
- Exhibit 8 Sample FFIS BE Document (Budget Execution)
- Exhibit 9 Sample FFIS BL document (Budget Level)

U.S. Department of Agriculture Agricultural Research Service

Application for Revocable Permit for Use of Facilities/Grounds or Easement Deeds

Please check one:

| Revocable Permit for use of F | acilities/Grounds |
|--|---|
| Easement Deed | |
| Applicant Name: | Date: |
| Contact Name: | Phone # |
| A 11 | |
| <u>Revocable Permit</u> | |
| Date requested for services/activity | : |
| Entry Time: | Exit Time: |
| Identify site(s) to be used (list at lea | ast one specific site). |
| Itemize equipment needed (i.e., sou | nd equipment, lights, screens, etc.). |
| Provide <u>detailed</u> description of the a specific and detailed as possible). | activity (the purpose, estimated number in attendance, etc. Be as Attach additional pages, if required. |
| Easement Deed | |
| Project Description: | |

| Length: | Width: | |
|---------|------------|--|
| - | | |

Acres: _____

| Improvements to b | e Constructed: _ | | |
|-------------------|------------------|------|--|
| | | | |
| | | | |
| | | | |
| Scheduled Start: | | | |
| | | | |

Scheduled Finish: _____

All ARS regulations shall be obeyed. Falsification of any of the above information shall result in immediate cancellation of permission to conduct activity with no refund. Permission is granted for the date and time indicated only and is not transferable. Locations other than those approved may not be used.

I understand and agree to the conditions above and have not falsified any information about this activity.

Signature: _____

Date: _____

| FOR OFFICIAL USE ONLY Approved/Denied: | Approving Official: | |
|---|---------------------|--|
| Date: | | |
| Reason for Denial: | | |

Notification: Security, Area Realty Officer, Scheduling Coordinator

| | UN | ITED STATE | S DEPARTMEN | Г OF AGRICULTURE | |
|--|---|--|---|-----------------------------|--|
| | | А | LLOTMENT AI | OVICE | |
| AGENCY NAME AN To: | D ADDRESS | P | AGENCY CODE | FUND CODE | DOCUMENT NUMBER |
| | | Ē | EFFECTIVE DATE | FISCAL YR T | REASURY SYMBOL |
| | | Ā | ACCOUNTING CLAS | SIFICATION | |
| DESCRIPTION | | | | | |
| quarter, and obligations limitation subject to Sec | s may not be incurred a ction 3679 of the Revis | t any time in exco sed Statues, as an | ess of such limitations. nended, may be liable t | Allottees who incur obligat | amount through the current period or tions in excess of an allotment or disciplinary actions, fine of not more orm or as an attachment. |
| | | FUNDS | ALLOTTED BY | QUARTERS | |
| QUARTER ENDING | PRIOR AMOUNT | INCREASE | DECREASE | PRESENT AMOUN | T CUMULATIVE AMOUNT |
| 1 – Dec. 31 | | | | | |
| 2 – March 31 | | | | | |
| 3 – June 30 | | | | | |
| 4 – Sept. 30 | | | | | |
| TOTALS | | | | | |
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| PERIOD ENDING | PRIOR AMOUNT | INCREASE | DECREASE | PRESENT AMOUN | T CUMULATIVE AMOUNT |
| 1 – Jan. 31 | | | | | |
| 2 – May 31 | | | | | |
| 3 – Sept. 30 | | | | | |
| | | FUNDS AI | LLOTTED ON A | NNUAL BASIS | |
| PERIOD ENDING | PRIOR AMOUN | Γ ΙΝΟ | CREASE | DECREASE | PRESENT AMOUNT |
| 1 – Sept. 30 | | | | | |
| EXPLANATION | | | | | |
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| AUTHORIZED SIGNA | ATURE AND TITLE | | | | DATE |

FORM AD - 704 (7/76)

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| 4 DEFERRED A*HS25-BATC HELD | H/DOCUMENT SAVED | | A- | -*HS33 – DOCUMENT |

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| STATUS: HELD | BATID: | SEC2: | |
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A--*HS25-BATCH/DOCUMENT SAVED HELD

A--*HS33 – DOCUMENT

Agricultural Research Service Agricultural Research Information System Authorization to Apply for and Use Funds From Outside Sources

| Modecode/Log Number: 5445 Location/Management Unit Na MANDAN, NORTH DAKOTA NATURAL RESOURCE MAN | me: | СН | Status: Active | 2 |
|--|----------------------------|--------------------|------------------------|-------------|
| Contact: | | | Type: Princip | al |
| Investigator | | | T L L (70 | 1) ((7 2010 |
| Series: Range Conservation | | | Telephone: (70 | |
| Purpose of Funds:Service (Services | Only | Тур | e of Service: Space | e & Other |
| Type of Agreement: Trust Remarks: | | | | |
| Source of Funds: REVOCABLE PERMITS AND | EASEMENTS | | Type: USDA | |
| IPSC: Always Waived Requesting IPSC Waiver: Why are you requesting IPSC? | | | Waiver approve | ed by BPMS: |
| Do you or any full-time residen (dealings) with the Cooperating | | ave any activ | ity or financial inte | erest |
| Start Date: 08/01/2000 | End Date: 07/31/ | 2005 | Duration: 60 | (months) |
| How are funds to be used? | ARS FTE: | 0.00 | Total Proposed: | \$57,000 |
| Category 1 Salaries: 0 | Supplies: | 0 | Equipment: | 0 |
| Other Federal Salaries 0 | Travel: | 0 | RSA: | 0 |
| Other Costs: 57, Value of Owned or Controlled | 000 ARS Buildings & Lar | d Utilized: | \$150,000 | |
| Area Ethics Advisor ONLY: Confirmation and determination No dealings, no conflict | ion of 'dealings' ques | ion responde | ed by SY. | |
| Recommended | | A | oproved / Concurre | ed |
| Signature A RL: | /D Date | Signature NPL1: | A/I | D Date |
| CD/LD/DAD: | | NPL2: | | |
| ABFO: | | NPL3: | | |
| AD: | | BPMS: | | |
| PAO: | | ADA: | | |
| Form ARS 425 | | | **** Official **** | |

Agricultural Research Service Agricultural Research Information System Authorization to Apply for and Use Funds From Outside Sources

| Modecode/Log Number: Date | | 5445-20-00 Accountin | | 18354 reement | Amount Received | | |
|---------------------------|--------------|-------------------------|-----------|-------------------------|-----------------|---------------------------|------------------|
| Entered FY Carryover | | Code | | umber | New | | |
| 12/03/2002 | 2003 | 389-5445- | 100 00- | 5445-0-0100 | \$500 | | \$0 |
| Fund Authoriz | ation: | | | | | | |
| IPSC Waived: | Yes | | | | | | |
| How is total an | nount to be | used? | | | Total Recei | ved Amount | t : \$500 |
| Category 1 S | alaries: | 0 | Supplies: | 0 | Eq | uipment: | 0 |
| Other Federa | al Salaries: | 0 | Travel: | 0 | RS | SA: | 0 |
| Other Costs: | | 500 | | | | | |
| Comments: | | | | | | | |
| | | | | | | | |
| | | | | | | | |
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| | | | | | | | |
| | | | | | | | |
| Form ARS-425 | | | | | ** | *** Official [*] | ***** |

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| | | | OF ALLOCATI | | |
| AGENCY NAME AN To: | ND ADDRESS | A | GENCY CODE | FUND CODE | DOCUMENT NUMBER |
| | | E | FFECTIVE DATE | FISCAL YR | TREASURY SYMBOL |
| | | Ā | CCOUNTING CLAS | SIFICATION | |
| DESCRIPTION | | | | | |
| quarters/periods, notify | y the issuing office in w | riting in advance. | Upon approval, the l | | changes in amounts show in total or by ised effect the required revision. Funds wn below. |
| | | FUNDS A | ALLOTTED BY | QUARTERS | |
| QUARTER ENDING | PRIOR AMOUNT | INCREASE | DECREASE | PRESENT AMO | UNT CUMULATIVE AMOUNT |
| 1 – Dec. 31 | | | | | |
| 2 – March 31 | | | | | |
| 3 – June 30 | | | | | |
| 4 – Sept. 30 | | | | | |
| TOTALS | | | | | |
| | | FUNDS | S ALLOTTED E | SY THIRDS | |
| PERIOD ENDING | PRIOR AMOUNT | INCREASE | DECREASE | PRESENT AMO | UNT CUMULATIVE AMOUNT |
| 1 – Jan. 31 | | | | | |
| 2 – May 31 | | | | | |
| 3 – Sept. 30 | | | | | |
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| fees, commen and facilities i for authorized These funds a | surate with the fair mari issued by the Agency, a l purposes." re subject to any limitat se for which they were a | ket value, for any j s authorized by lav ions not specifical | permit, easement, leas w, and such fees shall ly noted but containe | se, or other special use at be credited to this accound d therein, and are subject | 200, the Agency is authorized to charge thorization for the occupancy or use of lar int and shall remain available until expendence to 31 U.S.C. 1301 requiring their use only be handled in accordance with |
| This advice ef fees, commen- and facilities i for authorized These funds a for the purpos reprogrammin | surate with the fair mari issued by the Agency, a l purposes." re subject to any limitat se for which they were a | ket value, for any j s authorized by lav ions not specifical | permit, easement, leas w, and such fees shall ly noted but containe | se, or other special use at be credited to this accound d therein, and are subject | thorization for the occupancy or use of lat int and shall remain available until expend to 31 U.S.C. 1301 requiring their use only |

FORM AD - 705 (7/76)

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| BUDGET EXECUTION DOCUMENT | | | | | | | | | |
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A-*HS60-DOCUMENT MARKED FOR READ ONLY