

# Army Corps of Engineers: Rental Rates for Concession Operations Need Biennial Review

GAO-24-107208 (Accessible Version)  
Q&A Report to Congressional Committees

July 17, 2024

## Why This Matters

The U.S. Army Corps of Engineers manages hundreds of water resource development projects through its Civil Works program. At many of these projects, the Corps oversees public recreation amenities, such as marinas and campgrounds (see fig. 1). About 260 million visitors per year visit the Corps' more than 400 lake and river projects.

**Figure 1: Examples of the Corps' Public Recreation Amenities**



Sources: dbvirago/stock.adobe.com; USACE (VIRIN: 130703-A-CE999-025.jpg). | GAO-24-107208

Private businesses that enter into lease agreements at Corps projects obtain the right to operate recreational facilities and provide amenities, such as to sell food and fuel. These business activities are known as concession operations.

According to a December 2023 Corps report to Congress, as of June 2022 the Corps had 378 active concession operations leases in 27 states. (See app. II for the locations of active concession operations.) Corps divisions and districts conduct most of the work of managing leases for concession operations. In addition, Corps districts generally collect user fees from concession operators to cover the costs of certain Corps administrative expenses related to the leases.

The James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 includes a provision for us to review specific aspects of the Corps' concession operation leasing practices. (Pub. L. No. 117-263, div. H, tit. LXXXI, § 8236(b), 136 Stat. 2395, 3769 (2022)). This report answers questions related to those leasing practices.

## Key Takeaways

- According to Corps officials, the Corps considered the ability of concession operators to obtain a fair profit when, in 1994, it established a system of graduated lease rental rates that is based on the amount of annual revenues a concession generates.
- The Corps has not documented any reviews of or updated its rental rate system since it was originally adopted in 1994. We recommend that the

Corps review and, as necessary, update its system at least every 2 years, consistent with federal guidance. The Corps concurred with our recommendation.

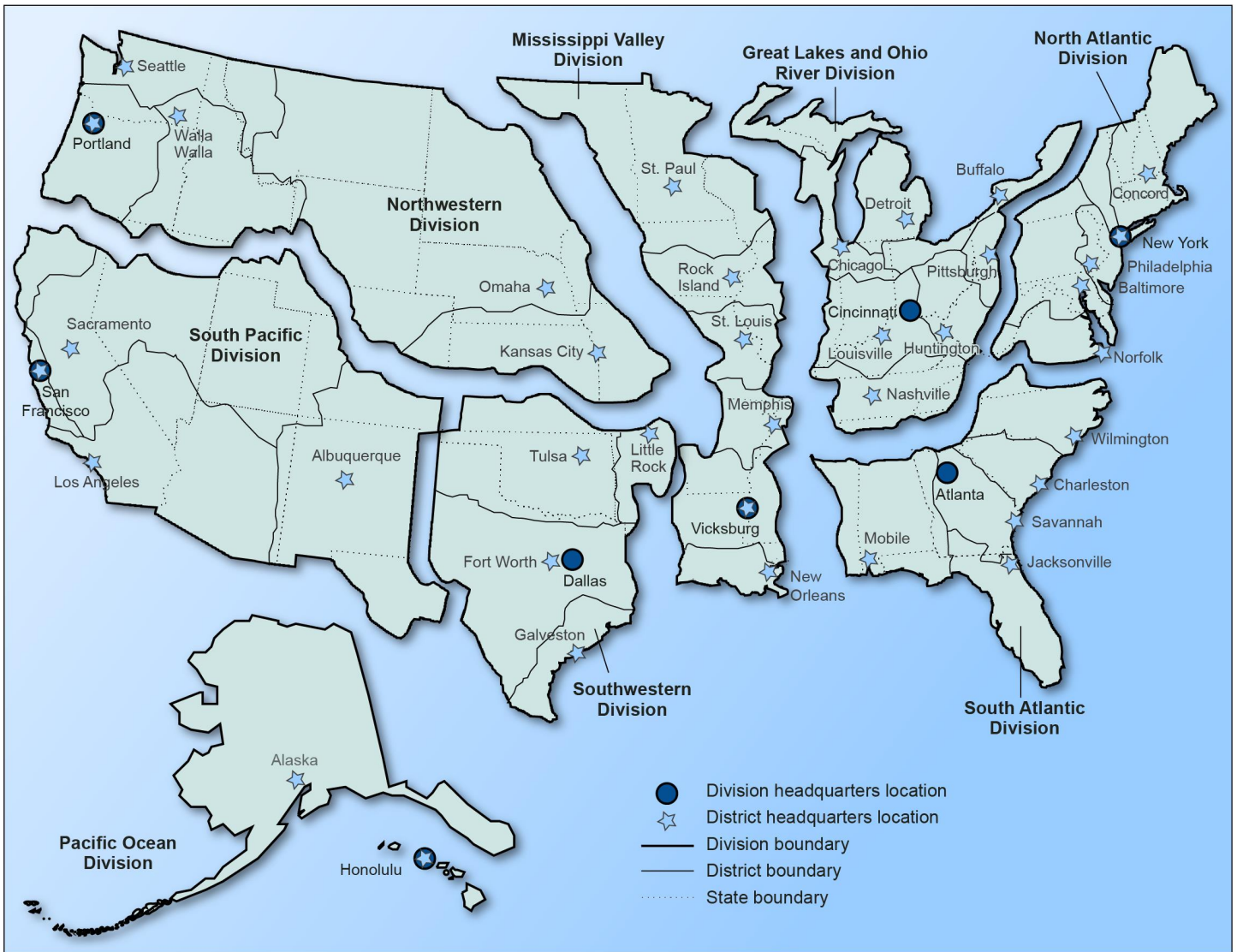
- In our December 2023 report on the Corps' management of administrative fees for real estate transactions, including leases to concession operators, we made six recommendations, including that the Corps require divisions or districts to regularly review fees and post fee information on their websites. The Corps agreed with five recommendations and partially agreed with one. In March 2024, the Corps developed a corrective action plan that outlined steps it plans to take to implement these recommendations. We will continue to monitor its progress.

## **Background**

The Corps—a component of the Department of Defense that has military and civilian responsibilities—is one of the world's largest public engineering, design, and construction management agencies. The Corps' Civil Works program comprises water resource development activities, including flood risk management, navigation, recreation, and infrastructure and environmental stewardship.

The Corps' Civil Works program is organized into three tiers nationwide: headquarters; eight divisions, which were established generally according to watershed boundaries; and 38 districts (see fig. 2.). Headquarters and the divisions generally establish policy and provide oversight, and the districts implement projects.

**Figure 2: Locations of U.S. Army Corps of Engineers' Civil Works Divisions and Districts**



Sources: GAO representation of U.S. Army Corps of Engineers data; Map Resources (map). | GAO-24-107208

Corps districts often authorize state and local governments, businesses, and private entities to use Corps-managed property at projects by issuing leases, licenses, and easements. For example, at one of its reservoirs, a district might issue (1) a lease to a private entity to operate a marina, (2) a license to an adjacent landowner for a stairway to a dock, or (3) an easement to a utility company for a power line across Corps-managed land.

### How does the Corps determine rental rates for concession operations?

Since 1994, the Corps has determined rental rates for all new concession operation leases using a system of graduated rates based on gross annual sales receipts from the prior calendar year, with certain deductions.<sup>1</sup> The system is incorporated into a Corps engineer regulation that was finalized that year.<sup>2</sup>

The rental rates start at 2.0 percent for gross receipts under \$50,000 per year and increase to 4.6 percent per year for gross receipts of \$5,000,001 and above.<sup>3</sup> (See app. III for the full system of graduated rates.) The Corps does not allow any reductions from gross sales receipts except for (1) the cost of hunting and fishing licenses and license fees; (2) taxes paid to state and local governments;

and (3) metered electric supply, which concession operators pay directly to utility companies.<sup>4</sup>

### **Does the Corps consider whether concession operators could make a fair profit?**

According to Corps officials, the agency initially considered opportunities for concession operators to obtain a fair profit when it set rental rates for leases in 1994. According to the engineer regulation, the primary objective in leasing Corps lands for commercial concession purposes is to obtain recreational services and facilities to meet the public demand at reasonable charges without federal expenditure to provide such facilities and services.<sup>5</sup> In addition, the regulation states that this purpose will be achieved only when the concession operator has an opportunity to make a fair profit.

According to Corps officials, the system of graduated rates that the Corps adopted in 1994 was recommended by a contractor that conducted an industry study for the Corps. According to Corps officials, the Corps adopted this system partly to allow concession operators the opportunity to obtain a fair profit.

According to Corps officials, concession operators enter into lease agreements voluntarily. According to these officials, lease agreements generally contain provisions that allow concession operators to request in writing termination of the lease based on conditions specified in the leases.

### **To what extent does the Corps follow federal laws and guidance in setting rental rates?**

The Corps has not fully followed relevant federal guidance in setting concession operation rental rates because it has not documented any reviews or updated those rates since 1994. Specifically, consistent with Office of Management and Budget (OMB) guidance and the Department of Defense's Financial Management Regulation, the Corps should biennially review user charges, including lease payments, for agency programs for assurance that existing charges are adjusted to reflect unanticipated changes in costs or market values.<sup>6</sup> In addition, OMB's guidance recommends that agencies maintain readily accessible records of these reviews. Furthermore, OMB's guidance recommends that the Corps and other federal agencies seek fair market value in payments to the government, such as for concession operation leases, to the extent permitted by law.<sup>7</sup>

The Corps engineer regulation cites OMB guidance stating that where a federal activity provides special benefits to a recipient above and beyond those accruing to the public at large, a charge should be imposed to recover the cost to the federal government. In addition, this regulation provides that when federally owned property is leased or sold, the Corps should obtain fair market value. Fair market value is to be determined in accordance with commercial rates and prices for similar property in the geographical area and is not limited to recovery of costs. Furthermore, fees to recover costs should cover direct and indirect costs of providing the special benefit.<sup>8</sup>

However, according to Corps officials, the Corps has not reviewed its system of graduated rates in the last 2 years and has no documentation to suggest that any such review has occurred since the current rental rate system was adopted in 1994. According to these officials, the Corps has not updated its system of graduated rates since the system was adopted in 1994. In addition, these officials stated that they do not have access to the original industry study that recommended those rates, including the assumptions used and definitions of terms such as "fair profit."

According to Corps officials, the agency has not reviewed its system of rental rates for concession operations because they represent a small portion of the Corps' real estate related financial activities and conducting a review of its system for rental rates must be weighed against all of the Corps' other priorities within a constrained budget environment. As a result, according to these officials, additional activities, such as reviewing the Corps' system of rental rates, may not get funding.

However, because the Corps has not adjusted the monetary thresholds for inflation, concession operators may be paying a relatively higher rental rate for the same level of economic activity as when the rental rates were set.<sup>9</sup> By reviewing the rates every 2 years, consistent with OMB guidance and the Department of Defense's Financial Management Regulation, the Corps would have greater assurance that concession operators have the opportunity to earn a fair profit and that the Corps will be able to collect fair market values from leases over time.

### **What is the Corps' basis for assessing administrative fees for concession operators?**

The Corps assesses administrative fees for concession operators' leases based on statutory authority. Under the National Defense Authorization Act for Fiscal Year 1998, the Secretary of a military department may accept amounts provided by a nonfederal person or entity to cover administrative expenses incurred by the Secretary in entering into certain real estate transactions.<sup>10</sup> This authority applies to several types of transactions, including the lease or license of real property of the United States.

The Corps charges administrative fees for reviewing applications and issuing and overseeing real estate instruments such as leases. These costs might be for a variety of activities, including surveying and mapping the site for the concession; reviewing environmental, legal, and other aspects of the use; preparing the lease or other real estate instrument; and periodically reviewing the use's compliance with requirements during the life of the lease.

### **How does the Corps assess administrative fees for concession operation leases?**

A Corps' engineer regulation establishes general procedures for the Corps' divisions and districts to follow for issuing, managing, and administering real estate instruments.<sup>11</sup> In addition, a 2012 headquarters memorandum establishes a policy and some procedures on collecting administrative fees for real estate instruments, including leases.<sup>12</sup>

Divisions may establish regional administrative fee policies and oversee their districts' management of administrative fees. Districts generally set and collect administrative fees and may have their own administrative fee policies.

Districts charge either a standard or custom administrative fee, depending on the type of real estate instrument or the level of effort required to issue and manage the real estate instrument.

- A standard administrative fee has a predetermined amount that is typically listed on a fee schedule. The Corps typically charges standard administrative fees—which can range from several hundred to several thousand dollars—for real estate instruments that are routine or lower effort, such as a license for a walkway to the shore of a Corps project.
- A custom administrative fee is based on a cost estimate specific to the individual real estate instrument, and therefore fee amounts vary. Custom administrative fees are typically, but not always, used for real estate

instruments that require a greater effort or coordination across multiple Corps entities, such as building a new park or marina. Custom administrative fees can range from thousands to tens of thousands or, in rare instances, hundreds of thousands of dollars.

In fiscal years 2018 through 2022, the Corps collected an average of about \$6 million per year in administrative fees, with a median fee amount around \$400.

### **How transparent are the Corps' administrative fees for concession operation leases?**

In December 2023, we found that the Corps does not consistently share information on administrative fees, such as for concession operations leases, with the public and fee payers.<sup>13</sup> We found that the Corps' agencywide policies for administrative fees lacked detail or direction to divisions and districts on how to set, review, and share information on administrative fees.

Less than half of the divisions and districts we selected for that review posted administrative fee information—including the amount of the fees—on their websites. In addition, 12 of 16 selected fee payers we interviewed for that review stated they did not recall receiving an explanation for the cost of the administrative fee.

We recommended that the Corps develop an agencywide policy to require districts to provide information to payers of real estate administrative fees that describes the purpose of the fee; the activities being performed for their real estate instrument; and, when possible, a breakdown of the total amount being charged. We also recommended that the Corps develop an agencywide policy to require divisions and districts to provide information about administrative fees on their websites to include available fee schedules, lists of real estate instruments requiring administrative fees, and methodologies used to set administrative fee charges. The Corps concurred with both of these recommendations, and in March 2024 the agency developed a corrective action plan to implement them. (See app. IV for more information about the recommendations and the actions the Corps plans to take to address them.)

### **How consistent are the Corps' administrative fees for concession operations?**

In December 2023, we found that the Corps did not have agencywide policies for managing administrative fees, such as for concession operations leases, and as a result the divisions and districts were not consistent in how they managed these fees.<sup>14</sup> For example, the Corps does not have policies that require administrative fees to be set consistently across divisions and districts or that the divisions and districts conduct regular reviews of fees.

We found that the specific inputs used to estimate costs differed across districts. Selected districts generally set administrative fees by estimating the costs the Corps incurs using activity, time, and labor inputs. For example, two of the six districts we selected for review include the cost of compliance inspections while the other four do not, which may result in disparate fees across districts for similar real estate transactions. In contrast, Federal Financial Accounting Standards state that, as a key practice, agencies should select a method to estimate costs—which are the basis for setting the Corps' administrative fees—and then use that method consistently.

We recommended that the Corps develop an agencywide policy to provide details to divisions and districts on how to estimate costs to set real estate administrative fees consistently across the agency, such as by defining the types of activities involved in managing real estate instruments to include when setting

fees. The Corps concurred with this recommendation, and in March 2024 the agency developed a corrective action plan to implement it.

In addition, GAO's design guide for federal user fees says that agencies should regularly review their fees and update them when appropriate to ensure the fees remain aligned with costs. However, in our December 2023 report, we found that the Corps did not regularly review and update fees. Almost none of the selected divisions and districts regularly reviewed and as appropriate updated administrative fees. Officials from one district noted that as a result its fee amounts have not kept up with increases to its costs.

In our December 2023 report, we also recommended that the Corps develop an agencywide policy to require divisions or districts to regularly review and, as appropriate, update their real estate administrative fees, including specifying what reviews should entail and how frequently to conduct them. The Corps concurred with this recommendation, and in March 2024 the agency developed a corrective action plan to implement it.

## Conclusions

To help provide amenities to the public at the hundreds of lake and river projects it manages, the Corps has entered into lease agreements with private concession operators in 27 states. The Corps charges the operators rental rates based on a graduated rental rate system and, in some cases, includes administrative fees. However, the Corps does not biennially review the rental rates as prescribed by guidance and has not documented any such reviews of its system of graduated rates since 1994. By reviewing the system every 2 years, the Corps could better ensure that concession operators earn a fair profit and that the Corps collects fair market values from leases over time.

Moreover, we found in December 2023 that, in most cases, the Corps' agencywide policies for administrative fees lacked detail or direction to divisions and districts on how to set, review, and share information on such fees. We made six recommendations, including that the Corps require divisions or districts to set administrative fees in a consistent manner, regularly review fees, and post fee information on their websites. The Corps concurred with five of these recommendations and partially agreed with one. In March 2024, the Corps developed a corrective action plan to implement these recommendations. We will continue to monitor the Corps' progress in implementing this plan.

## Recommendation for Executive Action

The Assistant Secretary of the Army for Civil Works should ensure that the Chief of Engineers and Commanding General of the U.S. Army Corps of Engineers establish a process to review the Corps' system of graduated rental rates for concession operation leases, update it as needed at least every 2 years, and document the review.

## Agency Comments

We provided a draft of this report to the U.S. Army Corps of Engineers for review and comment. In its comments, reproduced in appendix I, the Corps concurred with our recommendation and stated that the agency will develop procedures to perform the recommended biennial review. The Corps also provided technical comments, which we incorporated as appropriate.

## How GAO Did This Study

The Water Resources Development Act of 2022 includes a provision for us to assess and submit a report on (1) the extent to which the formula for calculating rental rates for the Corps allows concession operators to obtain a reasonable return on investment, taking into account operating margins for sales of food and

fuel and (2) the process and formula for assessing administrative fees for concession operator leases, including the statutory authority for such fees and the extent to which the process and formula for assessing such fees are transparent and consistent across districts.<sup>15</sup>

To identify how the Corps calculates the rental rates for concession operators and assess the extent to which the Corps follows Corps regulations and federal guidance in setting this formula, we reviewed Corps documentation and interviewed Corps officials about the system the agency uses to calculate the rental rates concession operators pay. In addition, we assessed the extent to which the Corps' system and procedures align with applicable requirements and guidance. Specifically, we compared the Corps' Engineer Regulation 405-1-12 *Real Estate Handbook*, which provides general procedures for managing title to and interest in Corps-controlled real property, with OMB-Circular A-25 Revised, which provides guidance for agency implementation of user charges, including setting lease rates, and with the Department of Defense's Financial Management Regulation.

To identify the statutory basis for the Corps' assessment of administrative fees for concession operation leases and review the extent to which the Corps' assessment of such fees is transparent and consistent across Corps districts, we reviewed and summarized relevant analyses and information from our December 2023 report on the Corps' real estate administrative fees ([GAO-24-106188](#)). In that report, we made six recommendations to the Corps. We interviewed Corps officials about any actions taken in response to those recommendations.

For our December 2023 report, we selected three Corps divisions and two districts in each of those divisions to examine how the Corps manages its administrative fees. We reviewed Corps policy documents for selected divisions and districts, as well as headquarters policy documents. We also interviewed real estate and operations officials at each level and an official from the Assistant Secretary of the Army for Civil Works—the office that establishes the strategic direction, develops policy, and supervises the execution of the Corps' Civil Works program.

In addition, we selected 17 instances of administrative fees the Corps charged to examine how the selected districts set and shared information about each of these fees for the December 2023 report. For each selected administrative fee, we reviewed Corps documents to see how the district set the fee and shared information about the fee with the fee payer. To further examine the Corps' efforts to share information about administrative fees, including with fee payers and the public, we reviewed the public websites for Corps headquarters, selected divisions, and selected districts.

Finally, we assessed the information we gathered for that report on how the Corps manages administrative fees against relevant criteria. Specifically, we compared the information we gathered from Corps headquarters and selected divisions and districts with key considerations and practices in GAO's design guide for federal user fees, the OMB Circular No. A-25, Federal Financial Accounting Standards, and the Department of Defense's policy on user fees, and chapter 8 of the Corps' *Real Estate Handbook*, as appropriate.<sup>16</sup> We will continue to monitor the Corps' progress toward implementing the six recommendations we made. Our December 2023 report provides a more detailed description of our methodology.

We conducted this performance audit from December 2023 to July 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and



conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

### List of Addressees

The Honorable Tom Carper  
Chairman  
The Honorable Shelley Moore Capito  
Ranking Member  
Committee on Environment and Public Works  
United States Senate

The Honorable Sam Graves  
Chairman  
The Honorable Rick Larsen  
Ranking Member  
Committee on Transportation and Infrastructure  
House of Representatives

We are sending copies of this report to the appropriate congressional committees, the Secretary of Defense, the Assistant Secretary of the Army for Civil Works, the Chief of Engineers and Commanding General of the U.S. Army Corps of Engineers, and other interested parties. In addition, the report will be available at no charge on the GAO website at <https://www.gao.gov>.

### GAO Contact Information

For more information, contact: Cardell Johnson, Director, Natural Resources and Environment, [johnsoncd1@gao.gov](mailto:johnsoncd1@gao.gov), (202) 512-3841.

Sarah Kaczmarek, Acting Managing Director, Public Affairs, [KaczmarekS@gao.gov](mailto:KaczmarekS@gao.gov), (202) 512-4800.

A. Nicole Clowers, Managing Director, Congressional Relations, [ClowersA@gao.gov](mailto:ClowersA@gao.gov), (202) 512-4400.

**Staff Acknowledgments:** Casey Brown (Assistant Director), Joseph Capuano (Analyst in Charge), Adrian Apodaca, Alyssia Borsella, Rebecca Conway, Frank Garro, William Gerard, David Goldstein, Joanie Lofgren, Joshua Marcus, Susan Murphy, Cynthia Norris, Kelly Rubin, and Namita Bhatia Sabharwal,.

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## Appendix I: Comments from the U.S. Army Corps of Engineers



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
441 G STREET, NW  
WASHINGTON, DC 20314-1000

June 28, 2024

Mr. Cardell Johnson  
Director, Natural Resources and Environment  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Dear Mr. Johnson:

The Office of the Assistant Secretary of the Army for Civil Works (OASA(CW)) received GAO Draft Report, GAO-24-107208, "Army Corps of Engineers: Rental Rates for Concession Operations Need Biennial Review," dated 3 June 2024 and appreciates the opportunity to review the draft report. The OASA(CW) values the GAO staff's professionalism, collaboration, and insights demonstrated during this audit. Enclosed you will find the Army's comments on the Draft Report (Enclosure 1) and technical comments (Enclosure 2).

Thank you again for the opportunity to comment. My point of contact is Christina Baysinger, [christina.m.baysinger.civ@army.mil](mailto:christina.m.baysinger.civ@army.mil), or 571-733-0053.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Connor".

Michael L. Connor  
Assistant Secretary of the Army  
(Civil Works)

Enclosures

**ENCLOSURE 1**

**GAO Draft Report Dated June 3, 2024  
GAO-24-107208 (GAO CODE 107208)**

**“ARMY CORPS OF ENGINEERS: RENTAL RATES FOR CONCESSION  
OPERATIONS NEED BIENNIAL REVIEW”**

**OASA(CW) COMMENTS  
TO THE GAO RECOMMENDATIONS**

**RECOMMENDATION 1:** The Assistant Secretary of the Army for Civil Works should ensure that the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers establish a process to review the Corps’ system of graduated rental rates for concession operations and update it as needed at least every 2 years, and document the review.

**OASA(CW) RESPONSE:** OASA(CW) concurs with comment.

The U.S. Army Corps of Engineers will develop procedures to perform the recommended biennial review.

## Accessible Text for Appendix I: Comments from the U.S. Army Corps of Engineers

June 28, 2024

Mr. Cardell Johnson  
Director, Natural Resources and Environment  
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Thank you again for the opportunity to comment. My point of contact is Christina Baysinger, [christina.m.baysinger.civ@army.mil](mailto:christina.m.baysinger.civ@army.mil), or 571-733-0053.

Sincerely,

Michael L. Connor  
Assistant Secretary of the Army  
(Civil Works)

Enclosures

### **ENCLOSURE 1**

**GAO Draft Report Dated June 3, 2024  
GAO-24-107208 (GAO CODE 107208)**

### **"ARMY CORPS OF ENGINEERS: RENTAL RATES FOR CONCESSION OPERATIONS NEED BIENNIAL REVIEW"**

OASA(CW) COMMENTS  
TO THE GAO RECOMMENDATIONS

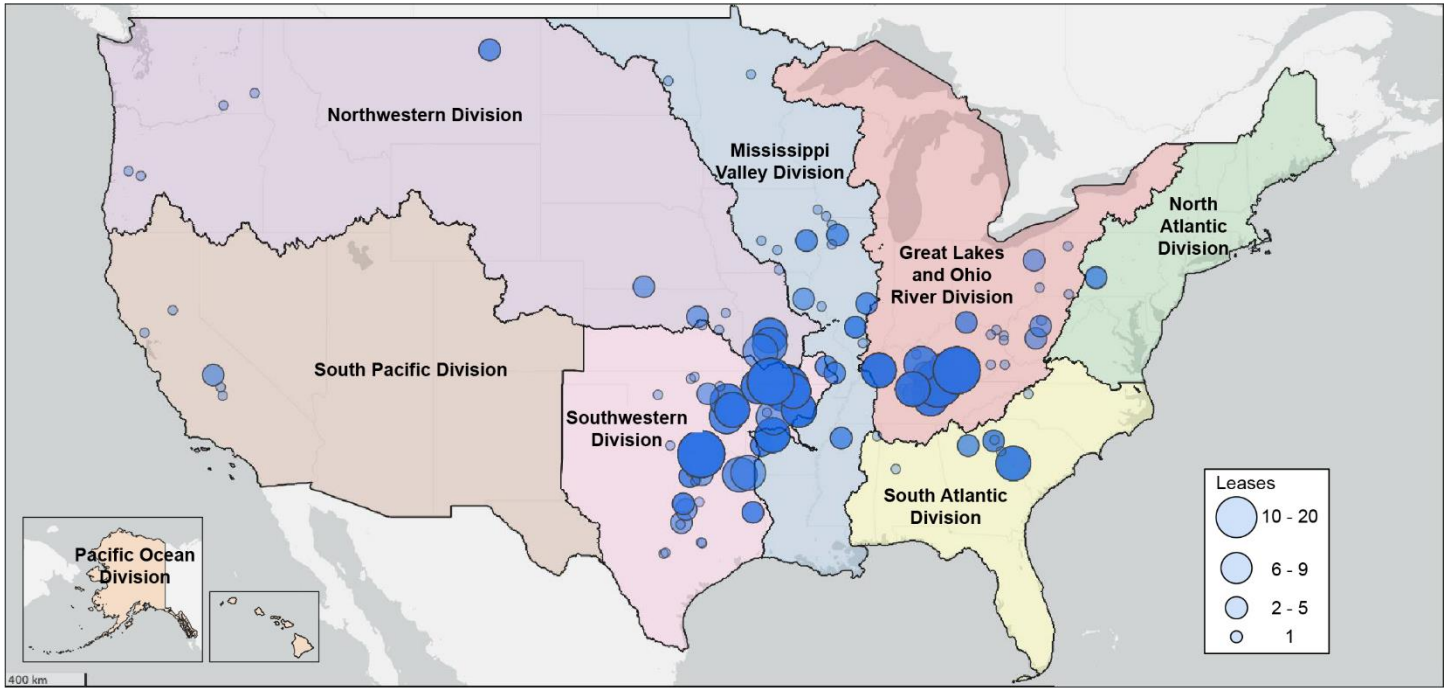
**RECOMMENDATION 1:** The Assistant Secretary of the Army for Civil Works should ensure that the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers establish a process to review the Corps' system of graduated rental rates for concession operations and update it as needed at least every 2 years, and document the review.

**OASA(CW) RESPONSE:** OASA(CW) concurs with comment.

The U.S. Army Corps of Engineers will develop procedures to perform the recommended biennial review.

## Appendix II: Locations of the Corps' Concession Operations

Figure 3: U.S. Army Corps of Engineers Concession Operations by Concentration of Leases, as of April 2024



Source: U.S. Army Corps of Engineers. | GAO-24-107208

## Appendix III: Corps' System of Graduated Rental Rates for Concession Operations

**Table 1: U.S. Army Corps of Engineers System of Graduated Rental Rates for Concessions Operations**

Gross annual sales receipts	Percentage as rent
Under \$50,000	2.0%
\$50,000–\$200,000	2.1%
\$200,000–\$400,000	2.2%
\$400,000–\$600,000	2.3%
\$600,000–\$800,000	2.4%
\$800,000–\$1,000,000	2.5%
\$1,000,000–\$1,200,000	2.6%
\$1,200,000–\$1,400,000	2.7%
\$1,400,000–\$1,600,000	2.8%
\$1,600,000–\$1,800,000	2.9%
\$1,800,000–\$2,000,000	3.0%
\$2,000,000–\$2,200,000	3.1%
\$2,200,000–\$2,400,000	3.2%
\$2,400,000–\$2,600,000	3.3%
\$2,600,000–\$2,800,000	3.4%
\$2,800,000–\$3,000,000	3.5%
\$3,000,000–\$3,200,000	3.6%
\$3,200,000–\$3,400,000	3.7%
\$3,400,000–\$3,600,000	3.8%
\$3,600,000–\$3,800,000	3.9%
\$3,800,000–\$4,000,000	4.0%
\$4,000,000–\$4,200,000	4.1%
\$4,200,000–\$4,400,000	4.2%
\$4,400,000–\$4,600,000	4.3%
\$4,600,000–\$4,800,000	4.4%
\$4,800,000–\$5,000,000	4.5%
\$5,000,001 and above	4.6%

Source: U.S. Army Corps of Engineers. | GAO-24-107208

Gross annual sales receipts are defined as the total of the concession operator's receipts from business operations conducted on the premises from the prior calendar year, including receipts of sublessees and licensees. No reductions are permitted except for the following: costs of hunting and fishing licenses, license fees, and taxes collected for direct remittance to a taxing authority, and the exact amount collected from customers for electrical service that is metered to the customer and paid to the power company. At the lessee's option, sales receipts from boats and motors may be excluded and assessed a straight 1.0-percent rent.<sup>17</sup>

## Appendix IV: Recommendations from GAO-24-106188 and Their Status

GAO made six recommendations to the Department of Defense.

The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop an agencywide policy to provide details to divisions and districts on how to estimate costs to set real estate administrative fees consistently across the agency, such as defining the types of activities involved in managing real estate instruments to include when setting fees. (Recommendation 1)

The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop or update, as appropriate, cost tracking processes to more fully capture data on actual costs of real estate activities for standard real estate administrative fees. (Recommendation 2)

The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop an agencywide policy to require divisions or districts to regularly review and, as appropriate, update their real estate administrative fees, including specifying what reviews should entail and the frequency of reviews. (Recommendation 3)

The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop a process to periodically provide opportunities for stakeholder input on real estate administrative fees. (Recommendation 4)

The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop an agencywide policy to require divisions and districts to provide information about real estate administrative fees on their websites to include available fee schedules, lists of real estate instruments requiring administrative fees, and methodologies used to set administrative fee charges. (Recommendation 5)

The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the U.S. Army Corps of Engineers develop an agencywide policy to require districts to provide information to payers of real estate administrative fees that describes the purpose of the fee being charged; the activities being performed related to their real estate instrument; and, when possible, a breakdown of the total amount being charged. (Recommendation 6)

The Army concurred with recommendations 1, 2, 3, 5, and 6 and partially concurred with recommendation 4. In March 2024, the Corps provided us with its corrective action plan, which identifies steps the Corps plans to take to implement these recommendations. Specifically, to fully address recommendations 1, 3, 4, 5, and 6, the Corps plans to develop a new policy to provide guidance to Corps divisions and districts by June 2025. In addition, to address recommendation 2, the Corps plans to develop or update, as appropriate, cost tracking processes to more fully capture data on actual costs of real estate activities for standard real estate administrative fees. The Corps plans to assess options for improving its cost tracking processes by September 2024.

### Endnotes

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<sup>1</sup>U.S. Army Corps of Engineers, *Real Estate Handbook*, Engineer Regulation 405-1-12, Ch. 8, §§ 8-153.a(4) & 8-157.g(2) (Washington, D.C.: Ch. 8 updated on Sept. 30, 1994, to Chg. 30). The

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Corps' engineer regulation defines gross sales receipts as the total of the concession operator's revenue from the sale of goods and services from business operations conducted on the premises. *Id.* § 8-157.g(2).

<sup>2</sup>Specifically, the latest update to Chapter 8 was finalized in 1994. U.S. Army Corps of Engineers, *Real Estate Handbook*, Engineer Regulation 405-1-12, Ch. 8 (Washington, D.C.: Ch. 8 updated on Sept. 30, 1994, to Chg. 30). That chapter provides guidance on the Corps' management of real property, including leases to recreational facility concession operators at water resource development projects, under the authority of section 4 of the Flood Control Act of 1944, as amended, Pub. L. No. 78-534, § 4, 58 Stat. 887, 889-90 (1944) (codified as amended at 16 U.S.C § 460d).

<sup>3</sup>U.S. Army Corps of Engineers, *Real Estate Handbook*, Engineer Regulation 405-1-12, Ch. 8, at 8-C-36 & 8-C-37 (Washington, D.C.: Ch. 8 updated on Sept. 30, 1994, to Chg. 30). According to the Corps' engineer regulation, concession operators are charged the lowest rate, or 2.0 percent, for the first year of the lease agreement. *Id.* § 8-157.g(3).

<sup>4</sup>In addition, according to the Corps' engineer regulation, at the lessee's option, sales receipts from boats and motors may be excluded and concession operators may be assessed a straight 1.0-percent rent. According to Corps officials, the agency collected approximately \$12 million in fiscal year 2023 from an estimated \$357 million in fiscal year 2022 gross receipts for its concession operators. On the basis of these Corps estimates, the average rental rate for Corps concession operators was 3.4 percent in fiscal year 2023. However, we did not assess the reliability of these data.

<sup>5</sup>U.S. Army Corps of Engineers, *Real Estate Handbook*, Engineer Regulation 405-1-12, Ch. 8, § 8-157.a (Washington, D.C.: Ch. 8 updated on Sept. 30, 1994, to Chg. 30).

<sup>6</sup>Department of Defense, Financial Management Regulation, Vol. 11A, Ch. 4: User Fees, 7000.14-R (Oct 2023) (section 2.2.5). Office of Management and Budget, *Circular No. A-25 Revised: User Charges* (Washington, D.C.: July 8, 1993).

<sup>7</sup>Office of Management and Budget, *Circular No. A-25 Revised: User Charges* (Washington, D.C.: July 8, 1993).

<sup>8</sup>U.S. Army Corps of Engineers, *Real Estate Handbook*, Engineer Regulation 405-1-12, Ch. 8, § 8-81.a.2 (Washington, D.C.: Ch. 8 updated on Sept. 30, 1994, to Chg. 30) (citing Office of Management and Budget, *Circular No. A-25 Revised: User Charges* (Washington, D.C.: July 8, 1993)).

<sup>9</sup>For example, a concession operation with \$1,865,136 of sales in calendar year 2023, with no reductions or exclusions, would pay a 3.0-percent rate for a total of \$55,954. However, this operation is equivalent to \$1,000,000 in annual gross receipts in calendar year 1994 dollars and would have entailed a payment at the 2.5-percent rate for a total of only \$25,000. So effectively, in this example concession operators would pay almost \$31,000 more for calendar year 2023 than for calendar year 1994, for the same level of economic activity the preceding year, or approximately \$9,300 in adjusted dollars.

<sup>10</sup>National Defense Authorization Act for Fiscal Year 1998, Pub L. No. 105-85, div. B, tit. XXVIII, § 2813(a), 111 Stat. 1629, 1993-94 (1997) (codified as amended at 10 U.S.C. § 2695). According to Corps officials, the Corps sought the authority to charge the real estate administrative fees after Congress stopped providing direct appropriations to cover the Corps' real estate administrative costs in the early 1990s. Under the National Defense Authorization Act for Fiscal Year 1998, the Department of Defense, including the Corps, can use the fee collections without additional congressional action.

<sup>11</sup>U.S. Army Corps of Engineers, *Real Estate Handbook*, Engineer Regulation 405-1-12, Ch. 8 (Washington, D.C.: Ch. 8 updated on Sept. 30, 1994, to Chg. 30).

<sup>12</sup>Memorandum from Scott L. Whiteford, Corps Director of Real Estate, and Wesley C. Miller, Corps Director of Resource Management, to all major subordinate commands (Sept. 5, 2012).

<sup>13</sup>GAO, *Army Corps of Engineers: Better Alignment with Key Practices Would Improve Management of Real Estate Administrative Fees*, [GAO-24-106188](#) (Washington, D.C.: Dec. 8, 2023).

<sup>14</sup>[GAO-24-106188](#). For this report, we assessed Corps management of administrative fees using GAO's *Federal User Fees: A Design Guide*, [GAO-08-386SP](#) (Washington, D.C.: May 29, 2008); OMB Circular No. A-25; Federal Accounting Standards Advisory Board (FASAB), FASAB Handbook of Federal Accounting Standards and Other Pronouncements, as Amended, Statement of Federal Financial Accounting Standards No. 4: Managerial Cost Accounting Standards and Concepts (Washington, D.C.: June 30, 2022); and Department of Defense, Financial Management Regulation, Vol. 11A, Ch. 4: User Fees, 7000.14-R (June 2020), as appropriate.



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<sup>15</sup>James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. No. 117-263, div. H, tit. LXXXI, § 8236(b), 136 Stat. 2395, 3769 (2022). Division H, title LXXXI of this act is the Water Resources Development Act of 2022.

<sup>16</sup>U.S. Army Corps of Engineers, *Real Estate Handbook*, Engineer Regulation 405-1-12, Ch. 8 (Washington, D.C.: Ch. 8 updated on Sept. 30, 1994, to Chg. 30).

<sup>17</sup>U.S. Army Corps of Engineers, *Real Estate Handbook*, Engineer Regulation 405-1-12, Ch. 8, at 8-C-36 & 8-C-37 (Washington, D.C.: Ch. 8 updated on Sept. 30, 1994, to Chg. 30).