

relatively common among D2C EWA providers, which raises the question of whether tips in this context qualify as finance charges. In general dictionaries, a tip is defined as a gratuity, and a gratuity is defined as “something given voluntarily or beyond obligation usually for some service.”⁷⁸ To the extent that any EWA products are credit, if a provider seeks tips in connection with the provision of EWA, the tip is arguably “incident to” the extension of credit. However, it is inherent in the meaning of “tip” that it is not imposed, even if providing one is considered customary. Accordingly, a bona fide tip provided by the consumer for EWA services cannot be a finance charge.

To the extent tipping for EWA services is not voluntary, however, tips can be “directly or indirectly imposed” by providers and thus qualify as finance charges. The determination of when a tip crosses the line from voluntary to imposed depends on the facts and circumstances of a provider’s practices.⁷⁹ For example, if the provider makes it too difficult to avoid tipping, the resulting consumer payment may be imposed, at least in part.⁸⁰ Providers seeking clarification from the CFPB about whether their particular practices concerning tipping do not rise to the level of imposing finance charges may request clarification from the CFPB by, for instance, applying for an Approval under its Policy on the Compliance Assistance Sandbox.⁸¹

⁷⁸ *Tip*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/tip> (last updated Oct. 31, 2025); *Gratuity*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/gratuity> (last updated Oct. 29, 2025). These terms are not defined in Black’s Law Dictionary.

⁷⁹ The 2024 PIR likewise indicated that determining when a tip is imposed depends on the facts and circumstances. But it also employed various devices designed to stack the deck in favor of a determination that tips are finance charges. For example, it used quotes for each and every mention of the word tip. It identified numerous considerations it deemed relevant to making this determination. Many of these, however, have no basis in the ordinary meaning of the term “tip” and the familiar practice of tipping. For example, the 2024 PIR states that the consumer’s “reasonable understanding that the provider expects a ‘tip’” is evidence that it is imposed. 2024 PIR, 89 FR 61358 at 61363 n.48. Consumers who are served at a restaurant have a “reasonable understanding” that the server expects a tip, but that doesn’t mean that the server imposes the tip. Another “relevant consideration” identified by the 2024 PIR is “suggesting ‘tip’ amounts or percentages to the consumer.” This is now a common practice on POS checkout platforms, but no reasonable consumer believes this makes any tips selected mandatory.

⁸⁰ Depending on the facts and circumstances, a provider’s tipping practices could instead or also be unlawfully deceptive under 12 U.S.C. 5531, 5536.

⁸¹ See *supra* note 29 (discussing the Policy on the Compliance Assistance Sandbox). Subsequent to the issuance of the 2024 PIR, at least five district court opinions have appeared that concern products

II. Regulatory Matters

This advisory opinion is an interpretive rule issued under the CFPB’s authority to interpret the Truth in Lending Act and Regulation Z, including under section 1022(b)(1) of the Consumer Financial Protection Act of 2010, which authorizes guidance as may be necessary or appropriate to enable the CFPB to administer and carry out the purposes and objectives of Federal consumer financial laws.⁸²

As guidance, this interpretive rule does not have the force or effect of law. It has no legally binding effect, including on persons or entities outside the Federal government.

By operation of TILA section 130(f), no provision of TILA sections 130, 108(b), 108(c), 108(e), or 112 imposing any liability applies to any act done or omitted in good faith in conformity with this interpretive rule, notwithstanding that after such act or omission has occurred, the interpretive rule is amended, rescinded, or determined by judicial or other authority.

The Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB) has determined that this action is not a “significant regulatory action” under E.O. 12866, as amended.

Pursuant to the Congressional Review Act,⁸³ the CFPB will submit a report containing this advisory opinion and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the interpretive rule taking effect. OIRA has designated this advisory opinion as not

that could be classified as EWA, and that hold that those products are credit and that expedited delivery fees and/or tips associated with those products are finance charges. See *Orubo v. Activehours, Inc.*, 780 F. Supp. 3d 927, 938 (N.D. Cal. Apr. 30, 2025) (motion to dismiss); *Johnson v. Activehours, Inc.*, 2025 WL 2299425, at *9 (D. Md. Aug. 8, 2025) (motion to dismiss); *Golubiewski v. Activehours, Inc.*, 2025 WL 2484192, at *1 (M.D. Pa. Aug. 28, 2025) (motion to dismiss); *Moss v. Cleo AI Inc.*, 2025 WL 2592265, at *4 (W.D. Wash. Sept. 8, 2025) (motion to dismiss); *Vickery v. Empower Finance Inc.*, 2025 WL 2841686, at *9 (N.D. Cal. Oct. 7, 2025) (motion to compel arbitration). All rely heavily, directly or indirectly, on the application of “credit” to EWA and the application of “finance charge” to EWA-related express delivery fees and tips in the 2024 PIR, despite the fact that the 2024 PIR was merely a *proposed* interpretive rule. The first of the cases, *Orubo v. Activehours*, quotes liberally from the 2024 PIR. Each of the four subsequent cases then relies heavily on *Orubo*. Now that the CFPB has not only formally withdrawn the 2024 PIR but officially rejected the interpretations advanced in it, these opinions have no real bearing on this advisory opinion.

⁸² 12 U.S.C. 5512(b)(1).

⁸³ 5 U.S.C. 801 *et seq.*

a “major rule” as defined by 5 U.S.C. 804(2).

The CFPB has determined that this advisory opinion does not contain any new or substantively revised information collection requirements that would require approval by OMB under the Paperwork Reduction Act.⁸⁴

Russell Vought,

Acting Director, Consumer Financial Protection Bureau.

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BILLING CODE 4810-AM-P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Comment Request; AmeriCorps National Civilian Community Corps (NCCC) Project Sponsor Survey

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Corporation for National and Community Service (operating as AmeriCorps) is proposing to revise an information collection.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by February 20, 2026.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) Electronically through www.regulations.gov (preferred method).

(2) By mail sent to: AmeriCorps, Ken Goodson, 250 E Street SW, Washington, DC 20525.

(3) By hand delivery or by courier to the AmeriCorps mailroom at the mail address given in paragraph (2) above, between 9 a.m. and 4 p.m. Eastern Time, Monday through Friday, except Federal holidays.

Comments submitted in response to this notice may be made available to the public through regulations.gov. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public

⁸⁴ 44 U.S.C. 3501 *et seq.*

docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comment that may be made available to the public, notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Ken Goodson, Director, AmeriCorps NCCC, 202-489-5766, kgoodson@americorps.gov.

SUPPLEMENTARY INFORMATION:

Title of Collection: AmeriCorps NCCC Project Sponsor Survey.

OMB Control Number: 3045-0190.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public:

Current/prospective AmeriCorps NCCC Project Sponsors.

Total Estimated Number of Annual Responses: 300.

Total Estimated Number of Annual Burden Hours: 100 hours.

Abstract: The AmeriCorps NCCC Project Sponsor Survey is completed by organizations that have sponsored an AmeriCorps NCCC team. Each year, AmeriCorps NCCC engages teams of members in projects in communities across the United States. Service projects, which typically last from six to eight weeks, address critical needs in natural and other disasters, infrastructure improvement, environmental stewardship and conservation, energy conservation, and urban and rural development. Members construct and rehabilitate low-income housing, respond to natural disasters, clean up streams, help communities develop emergency plans, and address other local needs.

AmeriCorps seeks to revise the current survey to remove information that we no longer need to collect. The current survey is due to expire on March 31, 2026.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology;

and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. All written comments will be available for public inspection on regulations.gov.

Walter Goodson,

Director, AmeriCorps NCCC.

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BILLING CODE 6050-28-P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Inland Waterways Users Board Third Request for Nominations

AGENCY: Department of the Army, U.S. Army Corps of Engineers, Department of Defense (DoD).

ACTION: Notice of open Federal advisory committee third request for nominations.

SUMMARY: The Department of the Army is publishing this third notice to request nominations to serve as representatives on the Inland Waterways Users Board ("Board"), sponsored by the U.S. Army Corps of Engineers. The Board provides independent advice and recommendations to the Secretary of the Army and the Congress. The Secretary of the Army recommends its 11 (eleven) representative organizations to the Secretary of Defense for approval. This notice is to solicit nominations for eleven (11) appointments for terms that will begin by May 29, 2026. For additional information about the Board, please visit the committee's website at <http://www.iwr.usace.army.mil/Missions/Navigation/Inland-Waterways-Users-Board/>.

ADDRESSES: Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: Mr. Paul D. Clouse,

Designated Federal Officer (DFO) for the Inland Waterways Users Board, CEIWR-NDC, 7701 Telegraph Road, Casey Building (Room I-204), Alexandria, Virginia 22315-3868; by telephone at 202-768-3157; and by email at Paul.D.Clouse@usace.army.mil.

FOR FURTHER INFORMATION CONTACT:

Alternatively, contact Mr. Steven D. Riley, the Alternate Designated Federal Officer (ADFO), in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR-GW, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315-3868; by telephone at 703-659-3097; and by email at Steven.D.Riley@usace.army.mil.

SUPPLEMENTARY INFORMATION: The selection, service, and appointment of representative organizations to the Board are covered by provisions of section 302 of Public Law 99-662, as amended (33 U.S.C. 2251). The substance of those provisions is as follows:

a. Selection. Representative organizations are to be selected from the spectrum of commercial carriers and shippers using the inland and intracoastal waterways, to represent geographical regions, and to be representative of waterborne commerce as determined by commodity ton-mile statistics.

b. Service. The Board is required to meet at least semi-annually to develop and make recommendations to the Secretary of the Army on waterways construction and major rehabilitation priorities and spending levels for commercial navigation improvements; advise and make recommendations to Congress regarding any feasibility report for a project on the inland waterways that has been submitted to Congress; advise and make recommendations to Congress regarding an increase in the authorized cost of inland waterways features and components; advise and make recommendations to Congress regarding construction, rehabilitation, and spending levels after submission of the budget proposal of the President to Congress; and report its recommendations annually to the Secretary and Congress. Additionally, the Board provides advice and recommendations on the development of a twenty (20) year capital improvement program submitted to Congress every five (5) years.

c. Appointment. The operation of the Board and appointment of representative organizations are subject to chapter 10, 5 U.S.C. (commonly known as the Federal Advisory Committee Act) and departmental implementing regulations. Individuals