

Library

Council

SWLGC

DEPARTMENT OF THE ARMY
Little Rock District, Corps of Engineers
P. O. Box 867
Little Rock, Arkansas 72203

LRDR 1180-1-7

LIBRARY COPY

Regulation
No. 1180-1-7

12 October 1970

CONTRACTS

Claims

1. Purpose. This regulation prescribes policy and instructions as to

a. procedures applicable to release of information and testimony of Corps of Engineers personnel, and

b. procedures to be followed relative to litigation in which the Corps of Engineers has an interest.

2. Applicability. Applicable to all individuals and organizational units of the District.

3. References.

- a. ER 1180-1-1, section 72.
- b. AR 27-45.
- c. AR 345-20.

4. Policy as to furnishing information.

a. Claims against the United States. Employees of the Government are forbidden by the United States Statutes to give any information or assistance in the initiation, prosecution, or support of claims of another individual or other individuals against the United States, or to be interested in the purchase of any claims against the United States within 2 years next after they shall have ceased to be employees.

b. Recommendations not to be disclosed. The recommendations made by field assistants or the District Engineer to higher authority with regard to either contractual or noncontractual claims will not be disclosed to claimants.

This regulation supersedes LRDR 1180-1-7 dated 30 August 1962

LRDR 1180-1-7
12 Oct 70

c. Official records. It is the policy of the Corps to comply with requests for access to or copies of records. Restrictions on the release of certain information or documents are prescribed in AR 345-20 and AR 27-45. If the records are safeguarded or the propriety of compliance with the request is doubtful, a report prescribed by ECI 72-108 will be forwarded to OCE for instructions.

d. Testimony in suits, subpoenas and subpoena duces tecum, requests for interviews and depositions. Requests for interviews with or subpoenas for testimony of military personnel or civilian employees will be referred to Office of Counsel. Requests or notices for the taking of a deposition or other evidentiary statements will be referred to Office of Counsel in like manner. If a person served with a subpoena, request for interview, or notice for taking of a deposition fails to receive authorization or other instructions prior to the time fixed for the event, he should communicate with counsel responsible for such issuance, state that he can produce the desired record or testify on the matter, or answer questions only if authorized, and request a postponement pending receipt of authorization. If a postponement is not obtained, then pending receipt of instructions from the District Engineer, the official or employee subpoenaed, or who has received notice of interview or of taking deposition, will appear as requested in answer thereto, and respectfully decline to produce records or give testimony on the ground that custody of all records is vested in the Secretary of the Army (5 U.S.C. 191), and that disclosure of official information is prohibited by this regulation prior to express authorization and instructions.

e. Report. The report required by subparagraph e hereof will be made on any request, subpoena, or order to furnish records, information, or testimony before any answer on same is made. Telephone report may be made in urgent cases. The report will (1) fully identify and briefly describe any litigation involved and the parties thereto; (2) advise the Government's relationship, if any, to parties litigant or person making the request; (3) inclose any document involved or describe if too bulky to feasibly inclose; (4) give a resume' of any information or testimony sought; (5) advise the use to which the documents or information will be put, or the fact or conclusion which is intended to be proved by same; (6) state opinion as to whether the honoring of such request or demand will likely prejudice the Government's interest; (7) recommend as to whether an exception to a general restriction should be effected; and (8) give reasons for any recommendation against disclosure of information or documents.

LRDR 1180-1-7
12 Oct 70

f. Authentication of records for court use. Whenever copies of official documents are to be introduced into evidence in court, same must be "duly authenticated" under the seal of the Department and signature of the Secretary of the Army, through the use of DA Form 4, unless trial counsel advises such formality is not desired. Requests for such authentication will be forwarded to the Office of Counsel of the District Office. Unless exceptional circumstances are involved, it is contrary to the policy of the Chief of Engineers to furnish the originals of the Corps of Engineers record for court use. It is provided in 28 U.S.C. 661 that "copies of any books, records, papers, or documents in any of the executive departments authenticated under the seals of such departments, respectively, shall be admitted in evidence equally with the originals thereof."

g. The Miller Act (provided for the furnishings of performance and payment bonds by contractors). This act provides that litigants or prospective litigants thereunder may apply to the Comptroller General for information as to the date of final settlement and for copies of the pertinent payment bond and prime contract. Whenever any person requests such information or documents, he shall be advised of this provision and instructed to address his request to the Comptroller General, Washington, D. C.

h. Cost of reproducing records. Whenever the request of a private person or firm for copies of official records is approved, the District Engineer will bill such person or firm for the cost of reproducing such records, which includes fees and charges for copying, certification, and search of records as prescribed in AR 37-30.

FOR THE DISTRICT ENGINEER:



ROBERT G. FERRARI
Major, Corps of Engineers
Deputy District Engineer

DISTRIBUTION A