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

LRDR 405-1-6

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Regulation
No. 405-1-6

8 December 1975

Real Estate
GRANTING EASEMENTS FOR USE OF GOVERNMENT-OWNED LAND

1. Purpose. This regulation prescribes responsibilities, policies, and procedures for executing certain easement grants for use of Government-owned land within the Little Rock District.
2. Applicability. This regulation is applicable to all personnel involved with the management and supervision of Government-owned lands.
3. References.
 - a. ER 405-1-800.
 - b. ER 405-1-840.
4. Procedures.
 - a. Under statutory authority the Secretary of the Army has delegated to the Chief of Engineers authority to execute, under certain conditions and for certain purposes, easements to use Government-owned land. The Chief of Engineers in turn has delegated to the District Engineer, with authority to redelegate to the Chief, Real Estate Division, authority to execute easement grants. The delegated authority is limited to the following type grants:
 - (1) Electric power transmission lines.
 - (2) Communication lines and facilities.
 - (3) Radio, television, and other communications transmitting relay and receiving structures and facilities.
 - (4) Railroad tracks.
 - (5) Pipelines, except fuel-carrying pipelines.
 - (6) Canals, ditches, flumes, and tunnels.

All other easements must be submitted for execution by the Secretary of the Army in accordance with procedure outlined in ER 405-1-840.

This regulation supersedes LRDR 405-1-6 dated 15 June 1970

b. Criteria.

(1) Determination of availability - Grants will be executed only after a determination is made that the land is available for the proposed use in accordance with applicable Army or Air Force Regulations, if military lands are involved, or by the Chief of Engineers, or any representative designated by him, if civil works land is involved.

(2) Competition - Generally competition is not practicable.

(3) Consideration - Grants will reserve an adequate consideration not less than that charged by private interests in the vicinity, except grants for public purposes to states, counties, municipalities, or political subdivisions thereof, which may be made without consideration. Rural electrification administration financed nonprofit cooperatives are exempt from the payment of any charges for grants or easements.

(4) Term - Easements granted under the Act of 27 May 1952 shall not exceed 50 years; the term should, however, be limited to such lesser period as the particular use requires. Other easements shall generally be limited to a like term unless the circumstances, including legal limitations of the authority of the grantee, require easement to be for longer period or in perpetuity.

(5) Land - No land will be included in an easement which is not necessary for the exercise of the privilege granted. The width of a right-of-way will not exceed any statutory limitation. Easements are appropriate only as to Army and Air Force lands owned in fee by the United States. Where the United States has a lesser estate or interest, a Consent to Easement is proper. All references elsewhere in this authorization to "easements" or "grants" apply as well to "consents" to easements, where the granting of such would be appropriate. Grants will not be made under this authorization as to:

- (a) Property in excess status.
- (b) Land held under permit from another agency.
- (c) Public lands which have not been permanently withdrawn.

c. Forms.

(1) ENG Form 1360 will be used for grants under the Act of 27 May 1952 (43 U.S.C. 961).

(2) ENG Forms 1361 and 1361a will be used for grants under the Title 10, United States Code, Sections 2668 and 2669.

(3) In executing individual grants, only the following alterations and additions to the above forms are authorized:

(a) Where a Consent to Easement is to be executed, the following will apply:

The granting clause will be deleted and the words "the consent of the United States" will be substituted therefor.

Wherever the words "easement" or "right-of-way" appear in the form, appropriate revisions will be made; and

A condition will be included in all consent instruments reciting the interest of the United States in the land and providing that the grantee shall obtain such permission as may be necessary on account of other existing rights.

(b) Condition 10 of ENG Form 1360 and Condition 9 of ENG Form 1361 may be deleted when inappropriate.

(c) Where no consideration will be obtained in accordance with the above criteria, Condition 1 of ENG Forms 1360 and 1361 may be deleted.

(d) A condition may be added reserving a flowage or other easement, as required.

(e) Explanatory conditions may be added which describe and make the grant subject to outstanding encumbrances, inform the grantee that he must obtain other permits or grants, or note alterations to the form prior to execution.

(f) In unusual cases and where substantial monetary consideration is paid for the easement, the words "or disposal" may be deleted in Condition 11 of ENG Form 1361.

5. Exceptions. Rights-of-way for fuel-carrying pipelines, roads, sidewalks, pumping stations, power substations, dams, and all other rights-of-way not specifically mentioned in quoted delegation are excluded and applications therefor will be processed in accordance with existing regulations.

FOR THE DISTRICT ENGINEER:



CHARLES E. DOWNS
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