

\*DR 405-1-500

DEPARTMENT OF THE ARMY  
ST. LOUIS DISTRICT, CORPS OF ENGINEERS  
1222 SPRUCE STREET  
ST. LOUIS, MISSOURI 63103-2833

CELMS-RM-F/CELMS-RE

Regulation  
No. 405-1-500

31 August 1992

Real Estate  
PROCESSING CLAIMS WHEN PAYMENT IN  
LIEU OF RESTORATION IS INVOLVED

1. PURPOSE. The purpose of this regulation is to outline the procedure to be followed in the processing of claims resulting from usage or occupancy of real property by the Government or its contractor.

2. APPLICABILITY. This regulation applies to processing of damage claims that are covered by real estate documents within the St. Louis District.

3. REFERENCES.

- a. Army Regulation (AR) 27-20, 28 Feb 90, Claims
- b. Army Regulation (AR) 405-15, 1 Feb 80, Real Estate Claims Founded Upon Contract
- c. Engineer Regulation (ER) 405-1-12, 20 Nov 85, Real Estate Handbook

4. GENERAL.

Claims will be divided into two categories:

a. Claims resulting from operations under a right-of-entry permit or contract, which provide for payment of damages, in lieu of restoration.

b. Claims arising out of use and occupancy by the Government without contractual authority. See paragraph 6.

5. PROCEDURES.

a. Processing of Claims. The Real Estate Division will process all claims listed under paragraph 4.a., above. The

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\*This regulation supersedes DR 405-1-500, 13 April 1977

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landowner will be advised at the time of signature of the contract or right-of-entry permit to submit promptly to the Real Estate office or directly to the Real Estate Division (Real Estate Claims Officer) all requests for reimbursement of property damage either by telephone or letter. The Real Estate Claims Officer will have an appraisal or formal estimate prepared if the owner is in agreement; a Supplemental Agreement (Appendix A) covering settlement in lieu of restoration will be executed.

b. Damage Claim Assembly.

(1) Contract, right-of-entry permit or other real estate instrument, in triplicate.

(2) Supplemental Agreement covering settlement, in quadruplicate.

(3) Owner's signed request for reimbursement of amount claimed, in triplicate, if available. (SF 95 may be used.)

(4) Real Estate appraisal of estimated damages if claim exceeds \$250.00. If claim is \$250.00 or less, a formal memorandum of estimate will be prepared by claim investigator.

c. Approval of Claims. The original and one copy of the assembly documents, with an extra copy of the Supplemental Agreement, will be transmitted to the Finance and Accounting Branch of the Resource Management Office for certification of funds. If the claim is less than \$5,001.00, it will then be forwarded to the Chief of the Real Estate Division for approval and execution of the Supplemental Agreement. If the claim is \$5,001.00 or over, it will be forwarded to the District Engineer for approval and execution of the Supplemental Agreement. After approval, the file will be sent to the Claims Officer of the Real Estate Division. There is no limitation to the amount of claim that the District Engineer can approve under this procedure.

d. Payment of Claim. When a claim has been approved by the Chief of the Real Estate Division or the District Engineer, the Claims Officer of the Real Estate Division will forward to the Finance and Accounting Branch of the Resource Management Office the following documents:

(1) Voucher (SF 1034), in triplicate.

(2) Authenticated copy of the right-of-entry permit.

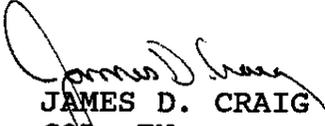
(3) Two signed copies and one conformed copy of the Supplemental Agreement.

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Upon receipt of the above forms, together with an ENG Form 4480, in the Finance and Accounting Branch, the claim will be certified for payment. One copy of SF 1034, indicating voucher number and date of payment, will be returned to the Claims Officer, Real Estate Division, to complete the claim file; one signed Supplemental Agreement will be mailed with the check.

6. Processing Claims Under Provisions of AR 27-20.  
Provisions of AR 27-20 must be used where damage or loss is incident to use and occupancy of real estate where there exists no real estate instrument providing for settlement. These claims are handled by the District Claims Officer, Office of Counsel.

APPENDIX  
A - Supplemental Agreement

  
JAMES D. CRAIG  
COI, EN  
Commanding

DISTRIBUTION:  
B  
CELMV-IM-SO (2)  
CELMS-IM-S (2)  
AH

APPENDIX A

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PRIVACY ACT INFORMATION

ER 405-1-500. Mandatory disclosure. Non-consent would preclude payment in lieu of restoration. Principal purpose of this information is to obtain a binding agreement from landowner as to terms of restoration to be made for damages caused by Government usage of property. Landowner agrees to a monetary payment in lieu of Government restoration. Routine use of this information is for the purpose of providing a right of the Government to enter property of owner-tenant.

\*\*\*\*\*N O T E\*\*\*\*\*  
If final agreement, cross out paragraph 2 and cross out the word "from" and the blank space thereafter in last "WHEREAS" clause and in paragraphs 1 and 3.  
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Right-of-Entry Permit

**SUPPLEMENTAL AGREEMENT**

This Supplemental Agreement entered into this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between \_\_\_\_\_ and \_\_\_\_\_, his wife, Owners, whose address is \_\_\_\_\_, for \_\_\_\_\_ and for \_\_\_\_\_ heirs, executors, administrators, successors and assigns, hereinafter called the Owners, and the United States of America, hereinafter called the Government,

WITNESSETH THAT:

WHEREAS, on \_\_\_\_\_, 19\_\_\_\_, a right-of-entry permit was granted by Owners to the Government, covering \_\_\_\_\_, for the term \_\_\_\_\_; and

WHEREAS, the Owners have given notice that restoration of the premises or cash settlement of damages by the Government in accordance with paragraph 4. of said right-of-entry permit will be required; and

WHEREAS, it has been determined advantageous and in the interest of the Government to continue said right-of-entry permit in full force and effect until expiration of the term aforesaid; and

WHEREAS, Owners agree, in lieu of performance by the Government of restoration provided by the said right-of-entry permit, to accept the sum of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_) in full settlement for physical damages incurred and for the Government's use and occupancy of said premises from \_\_\_\_\_, it being determined that this sum is due and payable now.

NOW, THEREFORE, in consideration of the premises, the parties hereto do mutually agree as follows:

1. That the Government shall pay to the Owners the sum of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_) in full settlement for physical damages to Owners' premises and for the use and occupancy thereof by the Government from \_\_\_\_\_.

2. That the Owners hereby agree that the right-of-entry permit to use and occupy these said premises, executed by them, shall continue in full force and effect until it expires on \_\_\_\_\_.

3. That the Owners hereby remise, release, and forever discharge the Government, its officers, agents, and employees from any and all manner of actions, liability, and claim against the Government, its officers, agents, employees, or representatives which the Owners have or ever will have for the restoration of said premises or by reason of any other matter, cause, or thing whatsoever particularly arising out of physical damage and/or use and occupation by the Government of the aforesaid premises from \_\_\_\_\_.

4. That no member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom, but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

IN WITNESS WHEREOF the parties hereto have executed this instrument as of the day and year first above written.

WITNESS:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

UNITED STATES OF AMERICA

By: \_\_\_\_\_