

*DR 405-2-680

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

CELMS-RE

Regulation
No. 405-2-680

22 March 1991

Real Estate
REQUIREMENTS FOR LOCAL COOPERATION PROJECTS

1. PURPOSE. This regulation prescribes procedures of the U. S. Army Engineer District, St. Louis, relating to lands, easements, rights-of-way, relocations, and dredge disposal (LERRD) requirements for local cooperation flood protection projects where there is no conveyance of title to the United States by local interests.

Note: Relocations include both P.L. 91-646 relocations of individuals, farms, and businesses and relocation/alteration of utilities, roads and highways, railroads, pipelines, etc.

2. APPLICABILITY. This regulation is applicable to all District organizational elements having responsibility, assigned by other regulations or directives, in connection with requirements for local cooperation projects.

3. REFERENCE. Engineer Regulation (ER) 405-1-12 (Chapter 12).

4. REAL ESTATE REQUIREMENTS. Minimum LERRD requirements that are necessary for the project will be determined by the Engineering Division (ED) and the Project Management Office (PM) in consultation with the Real Estate Division (RE). Based upon information furnished by PM below, RE will develop an appropriate acquisition schedule, estimate real estate costs associated with LERRD, and determine minimum estates to be acquired by the local sponsor. Project LERRD requirements will be evidenced by PM submitting to RE the following information:

a. Three copies of maps showing limits and acreage of the construction area(s) and delineating thereon the use to be made of all portions thereof. In addition, one additional set of maps

*This regulation supersedes DR 405-2-680, 30 April 1984.

DR 405-2-680
22 Mar 91

will be furnished for each utility or roadway which must be altered or relocated.

b. Covering memorandum outlining the project and use of referenced area(s), as shown on above-mentioned maps. Said memorandum shall contain the following data:

(1) Project Item Number and limits of work. (May be defined by stations or the applicable landmarks).

(2) General description of proposed construction and LERRD involved.

(3) List of existing facilities affected by the work and details of alteration requirements, together with list of separate alteration drawings to be furnished, if these drawings do not accompany transmittal memorandum. Specific requirements which are non-cost shared aspects of the project should be addressed in a Memorandum of Understanding between the Corps and local sponsor.

(4) Source of borrow materials and access routes, if borrow is not adjacent to construction areas.

(5) Any special specification provisions or any other matters which should be called to the attention of the local sponsor, i.e., additional LERRD requirements.

(6) If there has been any previous correspondence or understandings with the local sponsor, railroads, highway departments, or utility companies, the results thereof should be furnished.

(7) Scheduled dates for advertising and opening of bids, if different from published schedule.

5. NOTICE TO THE LOCAL SPONSOR TO ACQUIRE REAL ESTATE INTEREST. Upon the availability of construction funds and an executed local cooperation agreement, RE in coordination with PM will provide the aforesaid maps to the local sponsor accompanied by a letter setting forth the minimum real estate interests in the land to be acquired by the local sponsor and a request that evidence of the acquisition of these interests be appended to the right-of-entry permit to be transmitted to the District Engineer. Such acquisition evidence will be in the form of an attorney's certificate (Exhibit A). The certificate shall be accompanied by supporting documents such as a certificate of title or copies of documents conveying the necessary interests in land, in accordance with ER 405-1-12, 12-16. In addition, the local

DR 405-2-680

22 Mar 91

sponsor will be advised to hold a public meeting to discuss land acquisition procedures, as requested by Section 302 of Public Law 86-645.

6. REVIEW OF EVIDENCE OF LOCAL COOPERATION.

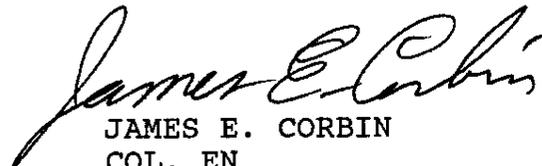
a. Upon receipt of a Right-of-Entry Permit, Attorney's Certificate, and supporting documents from the local sponsor, PM, ED, and RE will review such documents as to the interests in real estate acquired by the local sponsor. The local sponsor must also furnish proof to RE that it has complied with the applicable provisions of Public Law (P.L.) 91-646 in the acquisition.

b. RE shall prepare a memorandum of opinion that, based on the evidence submitted, the estate acquired by the local sponsor for project LERRD complies with P.L. 91-646, ER 405-1-12, and DR 405-2-680.

c. A mutually agreed upon completion date for acquiring all LERRD for the project or an approved usable segment will be determined, prior to advertising the construction contract, through the coordinated efforts of PM with RE, ED, and the local sponsor.

d. RE in coordination with PM will advise the local sponsor that the Entry Permit and Attorney's Certificate, together with supporting documents, have been reviewed and approved.

Encl
Exhibit A


JAMES E. CORBIN
COL, EN
Commanding

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

Exhibit A
DR 405-2-680
22 Mar 91

ATTORNEY'S CERTIFICATE

For Government Work

To be performed as _____,

_____ District,
_____ County, State of _____.

I, _____, of the _____
of _____, _____ County, State of _____,
do hereby certify:

1. That I am an Attorney in good standing duly licensed to practice law in the State of _____, and

2. That I am currently engaged as Attorney-at-Law for the _____ District, _____ County, State of _____, and

3. That I am familiar with the Federal, State, and local law and requirements applicable to all phases of the above project, including the limitations of the charter of said District, and

4. That, as Attorney for said District, I have examined the permit required by the Government for prosecution of work contemplated by this item, the records of said District, and the records of _____ County, State of _____, pertaining to the required land and real estate, including the following documents, copies of which are attached:

LMS Form No. 56
1 June 1977

Exhibit A
DR 405-2-680
22 Mar 91

5. Based on information in my possession, including but not limited to the information contained in the above records and documents, it is my considered opinion, stated without any mental reservations, that the Grantors named in said documents were the owners in fee of said lands and real estate and that said District has acquired valid title in said lands and real estate sufficient to permit the Government, its officers, employees, agents and Government contractors, their officers, agents, employees, subcontractors, successors and assigns, to enter upon the land and real estate described in the said permit to perform the work necessary to accomplish the purposes of the above Government project without risk of liability to or interference by holders of any title in or interest in or against the lands and real estate covered by said permit.

Attorney

Address

Date: _____