

§211.7 Rights which may be granted by Division and District Engineers.

(a) *Authority of Division and District Engineers.* Division Engineers, the President of the Mississippi River Commission, and District Engineers of districts to which real estate functions have been or may be assigned are authorized to lease, in the name of and by authority of the Secretary of the Army, lands of the United States and improvements thereon, acquired for reservoirs for navigation and flood control, subject to the prior approval of the Chief of Engineers. Recommendations of District Engineers will be considered by Division Engineers and the President of the Mississippi River Commission in granting leases and District Engineers will administer the provisions of the leases, including the collection and deposit of payments.

§211.8 Limitations on rights which may be granted.

(a) *Advertising.* It is the policy to grant leases to the highest responsible bidders after advertising, where competition is practicable. Advertising consists of the circularization of notices among former owners of the land, owners of adjacent lands, and others known to be interested and by the posting of notices in public places, and publication of notices in newspapers where such publication is deemed advisable. Exceptions have been made to this policy in favor of former owners in granting leases for agricultural and grazing purposes in reservoir areas.

(b) *Consideration.* Title 10 U.S.C. 2667 provides that notwithstanding section 321 of the act of June 30, 1932 (47 Stat 412; 40 U.S.C. 303b) or any other provision of law, any such lease may provide for the maintenance, protection, repair, or restoration by the lessee, of the property leased or of the entire unit or installation where a substantial part thereof is leased, as a part or all of the consideration for the lease of such property. The consideration will be adequate but may consist of money and/or maintenance, protection, repair, or restoration by the lessee, of the property leased.

(c) *Consideration in easements and licenses.* In order to fully protect the interests of the United States, the Sec-

retary of the Army will not, without substantial compensation grant to non-government agencies, for the purpose of private profit, valuable rights in Government property. A fair charge will be made for such privileges, the amount to be determined by all the circumstances surrounding the case, including an estimate as to what private interest in the vicinity would charge for a similar privilege.

§211.9 Applications for leases, easements, licenses, and permits.

Applications for use of Civil Works property should be made to the District Engineer of the district within the boundaries of which the real estate is located. The District Engineer will determine whether the property will be required for public use during the period of the contemplated grant and whether the requested grant will interfere with any operations of the United States.

DISPOSAL OF REAL ESTATE ACQUIRED FOR CIVIL WORKS PURPOSES

AUTHORITY: Sections 211.10 through 211.13 issued under R.S. 161; 5 U.S.C. 301.

SOURCE: 13 FR 8749, Dec. 30, 1948, unless otherwise noted.

§211.10 Disposition of lands.

(a) Acts authorizing the Secretary of the Army to dispose of land acquired for the improvements of canals, rivers and harbors, or for flood control purposes are as follows:

(1) Section 7 of the act of Congress approved August 30, 1935 (49 Stat. 1048; 33 U.S.C. 558a) as extended by section 6 of the act approved August 18, 1941 (55 Stat. 650; 33 U.S.C. 701c-2, 77th Congress) authorizing sale of lands no longer needed for the purpose for which acquired.

§211.11 Sale or salvage of buildings, improvements, or crops.

(a) *Authority of law.* When any property (except land) which has been heretofore or may be hereafter purchased or acquired for the improvement of rivers and harbors or for flood control work is no longer needed, or is no longer serviceable, it may be sold in such manner as the Secretary of the

§211.12

Army may direct and the proceeds credited to the appropriation for the work for which it was purchased or acquired. (Section 5, act of June 13, 1902 (32 Stat. 373; 33 U.S.C. 558), as extended by section 3, act of March 1, 1917 (39 Stat. 450; 33 U.S.C. 701).)

(b) *Division Engineers.* Sales are conducted by the Division Engineers, Corps of Engineers.

(c) *Removal of buildings, improvements, or crops other than by sale.* If the buildings, improvements, or crops cannot be sold, they may be salvaged or razed as a part of the work under the project if they are in the way of new construction or interfere with the efficient operation of the project.

§211.12 Exchange of lands.

The Secretary of the Army is authorized to exchange lands acquired for river and harbor and flood control projects for privately owned lands required for such purposes. (Sec. 2 of the act of June 20, 1938 (52 Stat. 804; 33 U.S.C. 558b) as extended by sec. 3 of the act of August 11, 1939 (53 Stat. 1414, 33 U.S.C. 558b-1).)

§211.13 Approval of the Office of the Chief of Engineers.

In any case in which it may be necessary or advisable in the execution of an authorized project to exchange real property of the Government for real property required for such project, the Chief of Engineers receives a directive from the Secretary of the Army, and effects the exchange through the Division Engineers, Corps of Engineers.

REAL ESTATE CLAIMS

AUTHORITY: Sections 211.14 through 211.24 issued under R.S. 161; 5 U.S.C. 301.

SOURCE: 13 FR 8749, Dec. 30, 1948, unless otherwise noted.

§211.14 Definition.

The term *real estate claims* refers to those demands for payment submitted by individuals, partnerships, associations or corporations, including States, territories, and political subdivisions thereof, for rent, damages, utilities, out-of-pocket expenses and other payments, arising under the terms and conditions, whether express or implied,

33 CFR Ch. II (7-1-04 Edition)

of leases or other contracts for the use and occupancy of real estate by the Department of the Army or the Army, including right of entry permits, options to purchase, and other instruments sufficient to support a contractual relationship between the United States and property owner, or arising from the use and occupancy of real estate by the Department of the Army or the Army with the express or implied consent of the owner thereof in the absence of any formal lease or other contract therefor.

§211.15 Statutory provisions.

(a) All claims and demands whatever against the Government, unless there is some special authority for the settlement thereof by the department concerned, shall be settled and adjusted in the General Accounting Office (see R.S., sec. 236, as amended by act of June 10, 1921, 42 Stat. 24; 31 U.S.C. 71).

(b) *Meritorious Claims Act.* When there is filed in the General Accounting Office a claim or demand against the United States that may not lawfully be adjusted by the use of an appropriation theretofore made, but which claim or demand in the judgment of the Comptroller General of the United States contains such elements of legal liability or equity as to be deserving of the consideration of the Congress, he shall submit the same to the Congress, by a special report containing the material facts and his recommendations thereon (act of April 10, 1928; c. 334, 45 Stat. 413; 31 U.S.C. 236).

(c) *Limitations of time on claims and demands under (a) and (b) of this section.* The act of October 9, 1940 (54 Stat. 1061; 31 U.S.C. 71a) provides that every claim or demand (except a claim or demand by any State, Territory, possession or the District of Columbia) against the United States cognizable by the General Accounting Office under the act of June 10, 1921, and the act of April 10, 1928, will be forever barred unless such claim, bearing the signature and address of the claimant or of an authorized agent or attorney, will be received in said office within ten full years after the date such claim first accrued: *Provided, however,* That when such a claim of any person serving in the military or