

§211.3

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

Army of preliminary plans and surveys to the Congress for consideration and approval.

(c) *Local cooperation.* As a general rule in river and harbor and flood control projects, except channel improvements, channel rectifications, dam and reservoir, and certain other types of projects, local interests are required to provide without cost to the United States, all lands, easements and rights-of-way necessary for the construction of the projects.

§211.3 Function of Chief of Engineers.

(a) The Chief of Engineers, under the authority of the Secretary of the Army, is charged with the responsibility for the acquisition, management and disposal of all real estate or interests therein required for use by the Department of the Army for river and harbor, flood control and allied purposes.

§211.4 Acquisition of land.

(a) Real property and interests therein may be acquired by the Department of the Army by:

- (1) Purchase.
- (2) Condemnation.
- (3) Transfer from other Government departments and agencies.
- (4) Lease or similar instrument.
- (5) Donation or gift.

(b) *Methods of acquisition*—(1) *Purchase.* It is the policy of the Department of the Army to secure title to lands, or the desired interest therein, by direct negotiation and purchase, where possible. Each tract of land to be acquired is approved by qualified appraisers for the purpose of determining the market value. Options for the purchase of land will not be negotiated containing reservations or exceptions by landowners or subject to outstanding rights in third parties which may interfere with the use of the land for which it is being acquired. In no case will an option be negotiated in which a vendor excepts or reserves the right to repurchase the property, or undertakes to convey subject to rights in a third party. Generally, landowners or tenants are authorized to reserve, or except from the sale, crops, timber, buildings and improvements with the right to remove same within a speci-

fied period, provided such buildings, etc., are not required for use by the Department of the Army. Land is acquired subject to public highways, roads, railroads, pipelines, and other utilities, and if it is determined that they interfere with the Government's use of the property, will be relocated or extinguished by contract between the Government and State, county or utility involved. If at any time in the course of acquisition by direct purchase, it becomes apparent that acquisition by such means will involve substantial delay or cannot be accomplished because of title defects which cannot be eliminated within a reasonable time, or because of failure to agree on the price to be paid, action is taken to acquire the land by condemnation.

(2) *Condemnation.* Condemnation of land is accomplished by the Secretary of the Army requesting the Attorney General to file a condemnation petition and procure an order from the court in the Federal Judicial District where the land is located, granting to the United States the right of immediate possession. The declaration of taking act (40 U.S.C. 258a-d) permits the Government to file a declaration of taking in conjunction with the condemnations proceedings, and provides that title to the property described therein vests immediately upon filing of the declaration in court and deposit of the Government's estimate of compensation, named in the declaration, in the registry of the court. The court may enter orders directing that all or part of the money deposited by the Government be paid to the owner of the land or other persons having an interest therein. This payment is without prejudice to the landowner's right to seek a higher value for his land in the trial of the case before the court. Pending or during the trial under condemnation proceedings, negotiations may still be conducted with the landowner for the direct purchase of his property, and in the event an agreement is reached, action is taken to dismiss the land in question from the condemnation proceedings.

(3) *Transfer of land.* Transfer of land from other Government agencies to the Department of the Army is generally