

# REAL ESTATE DIVISION

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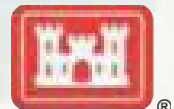
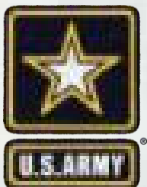
Galveston District

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# Typical Non-Federal uses of Federal Property Interests.

- ▶ **Non-Federal Use of Federal Placement Areas** – Corps typically issues a Consent to Easement. May require a Regulatory Permit Currently requires HQUSACE approval.
  - 33 U.S.C. 1344, Clean Water Act, Section 401(c)
  - 33 U.S.C 2326a Section 217(a) and 217(b)
  
- ▶ **Pipeline/Transmission Lines** – Corps issues a license or easement. May require a Regulatory Permit Typically requires the applicant to pay administrative fees
  
- ▶ **Various other uses of federal real property – Agricultural outgrants, Public Park and Recreational Outgrants, etc.** Typically requires applicant to pay administrative fees and consideration. May require a Regulatory Permit



# Outgrant Process

## OUTGRANT PROCESSING

### OUTGRANT DEFINITION:

A real estate instrument that authorizes a private or public entity, that is not the USACE, to access Federally controlled property for non-mission related purposes.

### RE APPLICATION

The RE Application:

- a) Latest on RE Webpage  
<http://www.swg.usace.army.mil/BusinessWithUs/RealEstateDivision/Outgrants.aspx>
- b) Revision underway
- c) Submit completed applications to [SWG-RE@usace.army.mil](mailto:SWG-RE@usace.army.mil)
- d) Request is assigned a Real Estate Intake Number (REIN)  
POC for OPs and RE provided



# Outgrant Process

## STEP:

### ***Administrative Fees and Consideration***

## ACTIVITY:

Two types of money are collected from applicants: administrative fees and consideration.

a) ***TIMING OF PAYMENT.*** *Administrative fees are paid in advance. Consideration is paid at the time the transactional documents are executed. A more detailed description of each follows.*

b) ***ADMINISTRATIVE FEES.*** *Title 10 U.S.C. 2695 authorizes the collection of the administrative costs to the Government for processing requests for the use of Government controlled property. These costs include but are not limited to payment for work products such as environmental, cultural and historical assessments, contract preparation, determinations of value, and preparation of land surveys, maps, and legal descriptions.*



# Outgrant Process

## **Administrative Fees and Consideration Continued**

**ADMINISTRATIVE FEES CONT'D.** Administrative fees are paid by the applicant in advance.

*The applicant will be sent a letter requesting administrative fees required to process their application. Work on the application WILL NOT take place until the requested administrative fees have been paid.*

**Payment of administrative fees does not assure the ultimate approval of the application.**

*If the actual administrative costs for processing the application are greater than the initial request, the applicant will be notified and required to pay the additional amount for processing of the application to continue. If excess funds exist at the time processing of the application is complete, the balance will be refunded to the applicant.*

**CONSIDERATION.** Consideration is the value paid by the applicant for using the Government controlled property. For example, if the Government controlled property is leased to the applicant, the consideration is rent. If the Government controlled property is used for the placement of dredged material, the consideration is the value of the Federal capacity in the Dredged Material Placement Area being used. Typically, consideration is paid by the applicant at the time the applicant executes the required transactional documents.



# Outgrant Process

## **OPS Technical Review**

**Technical Review.** Each application must undergo an in-depth technical analysis. The Technical Review begins in the Operations Division. The Operations Division will work directly with each applicant to request all necessary information for its technical evaluation. What information, beyond that which is requested in the RE Application, can vary greatly and each applicant must work with the Operations Division to assure what information is needed is provided. For example, a request seeking to horizontally directionally drill through a flood protection levee will be required to submit geotechnical information for evaluation. An applicant seeking to place dredged material in a Federal placement area, will need to submit a soil testing plan for approval as well as the testing report, when testing is complete.

When the Operations Division completes its technical review, it submits a written report to the Real Estate Division. This report identifies all the terms, conditions, restrictions, etc., to be imposed if the Government controlled property is to be utilized as requested.

## **RE Division Review**

**RE Division Review.** Once the Real Estate Division receives the Operations Division's written technical report, it can begin its work processing the application. The Real Estate review includes but is not limited to meeting all due diligence requirements for the transaction, evaluation of the real estate interests involved, establishing all requirements associated with those interests, determining the application of a broad range of real estate policies, assuring survey requirements are met, establishing the fair market value to be paid, and preparing all appropriate transactional documents. This review typically takes a minimum of 60 days from receipt of the Operations Division report



# Outgrant Process

## ***Outgrant Issuance***

*The next step in outgrant process is the issuance of the transactional documents. It is at this time that consideration must be paid by the applicant. The applicant will receive a letter requesting the consideration for the action authorized, along with copies of the transactional documents for execution. The applicant must execute the transactional documents returning the originals, along with a check for the consideration, to the Real Estate Division. Once the check for consideration and executed original documents have been received, the documents will be given to the Real Estate Contracting Officer for execution. Applicants will receive only one original of each transactional document unless multiple originals are requested in advance. Only when the fully executed original is received by the applicant is the activity authorized.*

## ***Outgrant Management***

*The final step in outgrant processing is outgrant management. The RE Division is responsible for outgrant management and it lasts for the term of the outgrant whether that is 30 days or 5 years. Applicants responsible for payment of administrative fees pursuant to Title 10 U.S.C. 2695 are responsible for payment of administrative fees for outgrant management.*



# Outgrant Process

## ***Frequently Asked Questions:***

### **1. HOW LONG WILL IT TAKE FOR ME TO GET MY OUTGRANT?**

Whether or not a request to use Government controlled property will be agreed to, and under what terms and conditions, requires a full District evaluation. The time it takes to process an application VARIES SIGNIFICANTLY, based on the complexity of the request and a number of other factors. Typically, no less than 6 to 12 months is needed from the time an application is accepted until an outgrant is issued. The Real Estate Division requires a minimum of 60 days from the time it receives formal notice from the Operations Division to proceed with its work to issue an outgrant. There are, however, some types of requests that take over 24 months to process, as the approval for these actions does not lie within the District, but with U.S. Army Corps of Engineers (USACE) Headquarters. USACE. Standard abbreviation for United States Army Corps of Engineers.

### **2. HOW SHOULD MAPPING INFORMATION BE SUBMITTED?**

RE Cadastral Data and Format Requirements:

Please provide digital mapping in either the equivalent or lesser version of the following: AutoCAD 2012 (.dwg) or ESRI ArcMap 10.2 (.shp). You must also provide the coordinate system and datum of the drawing . Additional detailed information provided in RE Application.

### **3. HOW DO REGULATORY PERMITTING AND WRDA 408 CLEARANCE REQUIREMENTS FIT INTO THE PROCESSING OF THE RE APP?**

The Real Estate Division cannot issue an outgrant until all applicable permits and 408 clearances have been obtained.

Neither a permit from SWG-Regulatory or a 33 U.S.C. 408 clearance authorize the applicant to access to Government controlled property. **Only the Real Estate Division can grant access** to Government real estate interests within the District AOR. Part of the Real Estate Division's determination of whether or not to grant access is based on whether all permitting and 408 clearance requirements have been met.

Regulatory jurisdiction is limited to the Waters of the United States and wet lands. Issuance of a regulatory permit does not authorize or bind the Government to allowing use of Government controlled land.





# Outgrant Process

## ***Frequently Asked Questions Continued:***

Likewise, the 33 U.S.C.408 makes it unlawful for any person or persons to build upon, alter, or deface work built by the United States to prevent floods, unless the Secretary of the Army grants permission. For permission to be granted it must be shown that the proposed activity will a) not be injurious to the public interest, and b) not impair the usefulness of the Federal project.

To inquire as to the Regulatory permits requirements, please see the SWG-Regulatory Division web page at:  
<http://www.swg.usace.army.mil/BusinessWithUs/Regulatory.aspx>.

To inquire as to 33 U.S.C. 408 requirements, please see the Operations Division web page at:  
<http://www.swg.usace.army.mil/BusinessWithUs/OperationsDivision.aspx>.

#### **4. *WHY CAN'T REAL ESTATE USE THE INFORMATION SUBMITTED TO REGULATORY?***

Based on its jurisdiction the Regulatory Division asks questions applicable to it's responsibilities. It can not convey rights in property.

The SWG Operations and Real Estate Divisions are responsible for determining, if, and under what conditions, Government controlled property within the District's area of responsibility may be made available to private entities. This determination requires thorough analysis by many portions of the organization. Technical and policy questions must be asked and answered before use is granted. Use MAY NOT be granted where it is inconsistent with mission needs or damages the project in any way. The Real Estate Division is the ONLY entity capable of granting property rights.



*Questions?*

