

GALVESTON DISTRICT, ARMY CORPS OF ENGINEERS

REAL ESTATE APPLICATION

SECTION V: 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 (acceptance here means all required information has been received by the District it deems necessary) 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 USACE HQ.

2. HOW SHOULD MAPPING INFORMATION BE SUBMITTED?

RE Cadastral Data and Format Requirements:

Applicants must submit their GIS data in either the equivalent or lesser version of the following: AutoCAD 2012 (.dwg) or ESRI Arc Map 10.2 (.shp) file; to better assist us in determining your entire project footprint and how your project could potentially impact Government-controlled land and or waters of the United States. When submitting GIS data, ensure that you annotate a Regulatory Permit number, indicate the coordinate system as well as which datum that their drawing is currently in. The design data should consist of simple lines and polygons indicating the limits of the project and proposed construction only.

If a CADD drawing is provided, label each layer in a way that describes the specific feature. If the layers are named using acronyms, a legend must be provided or shoe boxes with leader lines identifying each feature class within the drawing can be used. All areas must be created in real-world (model space) with an assigned coordinate system. Do not send drawings with XREFs or reference files; simply insert all needed files or feature layers into one design file. Cut-sheet or plate layouts in CADD are not needed however, PDF's of propose project plans and/or as-built would be greatly appreciated for any further review.

If a GIS shape file is provided, again the same applies about assigning a proper name sequence to describe that specific feature or it can also be defined in the spatial data within the shape file.

To help keep file sizes to the minimum imagery and USGS Quads do not need to be provided.

PERFERED PROJECTED COORDINATE SYSTEM

Datum: North American 1983 Feet

Projection: State Plane

Zone: Texas South Central

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

Regulatory Permits control the activities of the applicant to be performed in the Waters of the United States, including wetlands, pursuant to applicable laws and regulations, such as Section 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act. The Regulatory Division's review of permit requests is LIMITED to their jurisdictional authority. Regulatory Permits **DO NOT and CANNOT** authorize any activity within the Government-controlled property of a Federal Navigation Project. **Only the Real Estate Division** can authorize an applicant to access Government-controlled property. Government-controlled property includes uplands and submerged lands over which the United States exercises Navigation Servitude, such as in a Federal navigation channel.

Furthermore, the information the Regulatory Division needs to perform its work is not the same as that which is required for a Real Estate clearance. Therefore, **applicants must assure they work through BOTH the Regulatory and Real Estate clearance processes to obtain full authorization for any given activity.**

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

Regulatory, 33 U.S.C. 408, and Real Estate clearances are 3 separate types of clearances that may apply to a request to use Government-controlled property. Depending on the use requested, even more laws or regulations may apply. For example, if a party seeks to place non-Federal dredged material in a Federal placement area, Section 401(c) of the Clean Water Act applies.

REGULATORY

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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>.

33 U.S.C. 408

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

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NO DUPLICATION OF REVIEW

It is during the Technical Review that the Operations Division will verify that Regulatory permits and 33 U.S.C. 408 clearances have been obtained, if required. Three situations can occur:

- a. **NO REGULATORY OR SECTION 408 CLEARANCE REQUIRED:** If the activity presented does not require Regulatory or Section 408 clearances, then the Operations Division will begin its Technical Review.
- b. **REGULATORY AND/OR SECTION 408 CLEARANCES REQUIRED AND COMPLETE:** If the Regulatory and Section 408 clearances are already complete, the Operations Division will not duplicate the work performed under the Regulatory and Section 408 clearance processes. Instead, the Operations Division will incorporate the work performed through these clearances into its Technical Review.
- c. **REGULATORY AND/OR SECTION FOR CLEARANCES NEEDED BUT NOT COMPLETE:** If Regulatory and/or Section 408 clearances are needed but not complete, then the Operations Division cannot begin its Technical Review. Once these clearances are complete, the Operations Division will incorporate the work performed through these clearances into its Technical Review.

NOTE: Neither a permit from SWG-Regulatory or a 33 U.S.C. 408 clearance authorizes the applicant to access to Government-controlled property. **Only the Real Estate Division can grant access** to Government real estate interests within the District area of responsibility. 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. A Real Estate clearance cannot be processed until all permitting and 408 clearance requirements have been met.

5. DO I NEED A REAL ESTATE CLEARANCE TO PUT A PIPELINE UNDER A FEDERAL CHANNEL? **YES!**

The District is responsible for the operation and maintenance of the Federal navigation channel. This includes assuring that structures within and under the channel do not interfere with the operation of the Federal Navigation Projects. Through the Federal Government's right of Navigation Servitude, the District has the authority to control the placement of pipelines under the Federal navigation channels. Submission of a RE App is required. Successful applicants will be issued a Letter of Permission with specific requirements that must be followed.